

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005
AND THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS)
ORDINANCE, 2007

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Remove tennis court hardsurfacing and alter landscaping to create bicycle pump track, install benches and landscaping.

LOCATION: Delancey Park, Mont Morin, St. Sampson.

APPLICANT: Guernsey Velo Club

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 13/09/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 21/12/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DRP: 03, 3171-DR-002(A3), -003 & -300.

Application Ref: FULL/2022/2144

Property Ref: B006090000

Conditions and reasons:-

1.All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2.The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3.The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4.Prior to the commencement of works, a detailed and accurate drawing showing the location of the existing trees on site, along the east, south and west boundary of the proposed pump track, together with details of how these trees (including their roots) will be protected during the course of construction shall be submitted to and agreed in writing by the Authority. Each tree shall be protected in the approved manner for the duration of building operations on the site.

Reason - The existing trees adjacent to the east, south and west boundary of the pump tract as indicated on drawing no. 3171-DR-002(A3) appear to be shown for indicative purposes, and therefore the drawings are not accurate. These trees make an important contribution to the site and could be damaged during the construction phase of the development. The condition is imposed to make sure that they are properly protected while building works take place on the site, and by protecting the trees will help to assimilate the development into its surroundings. The trees to the north of the site are located on land outside of the application site which cannot be controlled by condition, although are separated by a granite wall and therefore are unlikely to be adversely affected as a result of works on site.

5.Prior to the bicycle pump track being brought into first use, full details of signage, including the hours of use, intended use for bicycle provision only, its size and where it is to be displayed shall be submitted to and agreed in writing by the Authority. The signage shall be installed in accordance with the details approved, and prior to the bicycle pump track being brought into first use and retained thereafter. The signage shall not be illuminated by any internal or external means.

Reason - To clearly outline the terms of use of the approved pump track in the interests of protecting the amenities of neighbouring residents.

6.The benches hereby approved shall be installed in accordance with the approved drawings prior to the bicycle pump track being brought into first use.

Reason - In the interests of protecting the amenities of neighbouring residents by distancing any social interactions away from the neighbouring properties to the north.

7.Prior to the bicycle pump track hereby approved being brought into use for the first time, full details of the proposed landscaping, including the species, height, spacing of plants when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the details of the landscaping scheme are appropriate in the interests of visual amenity and neighbour amenity.

8.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following bicycle pump track being brought into use for the first time. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - in the interests of visual amenity and neighbour amenity.

9.The hours of use for the hereby approved bicycle pump track shall be restricted to the maximum hours of 07:00-22:00, Monday to Sunday.

Reason - To clearly outline the hours of use of the facility in the interests of protecting the amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 12/09/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

The application approved does not include any floodlighting. Please note that if required, a separate planning application would need to be submitted and would be assessed on its own merits.

It is recommended that promotional activities are undertaken to inform the public know of its intended use as a cycling track in the interests of neighbour amenity.

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

(1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).

(2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.

(3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.

(4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.

(5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment or under any rule of law.

Right of appeal against planning decisions:

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the

development are constructed to meet the existing road/footway levels in accordance with their requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES

Director of Planning

Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2022/2144
Property Ref: B006090000
Valid date: 21/12/2022
Location: Delancey Park Mont Morin St. Sampson Guernsey
Proposal: Remove tennis court hardsurfacing and alter landscaping to create bicycle pump track, install benches and landscaping.

Applicant: Guernsey Velo Club

RECOMMENDATION - Grant: Planning Permission with Conditions:

1. All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2. The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4. Prior to the commencement of works, a detailed and accurate drawing showing the location of the existing trees on site, along the east, south and west boundary of the

proposed pump track, together with details of how these trees (including their roots) will be protected during the course of construction shall be submitted to and agreed in writing by the Authority. Each tree shall be protected in the approved manner for the duration of building operations on the site.

Reason - The existing trees adjacent to the east, south and west boundary of the pump tract as indicated on drawing no. 3171-DR-002(A3) appear to be shown for indicative purposes, and therefore the drawings are not accurate. These trees make an important contribution to the site and could be damaged during the construction phase of the development. The condition is imposed to make sure that they are properly protected while building works take place on the site, and by protecting the trees will help to assimilate the development into its surroundings. The trees to the north of the site are located on land outside of the application site which cannot be controlled by condition, although are separated by a granite wall and therefore are unlikely to be adversely affected as a result of works on site.

5. Prior to the bicycle pump track being brought into first use, full details of signage, including the hours of use, intended use for bicycle provision only, its size and where it is to be displayed shall be submitted to and agreed in writing by the Authority. The signage shall be installed in accordance with the details approved, and prior to the bicycle pump track being brought into first use and retained thereafter. The signage shall not be illuminated by any internal or external means.

Reason - To clearly outline the terms of use of the approved pump track in the interests of protecting the amenities of neighbouring residents.

6. The benches hereby approved shall be installed in accordance with the approved drawings prior to the bicycle pump track being brought into first use.

Reason - In the interests of protecting the amenities of neighbouring residents by distancing any social interactions away from the neighbouring properties to the north.

7. Prior to the bicycle pump track hereby approved being brought into use for the first time, full details of the proposed landscaping, including the species, height, spacing of plants when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the details of the landscaping scheme are appropriate in the interests of visual amenity and neighbour amenity.

8. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following bicycle pump track being brought into use for the first time. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - in the interests of visual amenity and neighbour amenity.

9. The hours of use for the hereby approved bicycle pump track shall be restricted to the maximum hours of 07:00-22:00, Monday to Sunday.

Reason - To clearly outline the hours of use of the facility in the interests of protecting the amenities of neighbouring residents.

INFORMATIVES

The application approved does not include any floodlighting. Please note that if required, a separate planning application would need to be submitted and would be assessed on its own merits.

It is recommended that promotional activities are undertaken to inform the public know of its intended use as a cycling track in the interests of neighbour amenity.

OFFICER'S REPORT

Site Description:

The application site comprises 3 disused tennis courts located to the east of Delancey Park. The tennis courts haven't been used for some time and are considered redundant, together with the former club house that lies to the west of the tennis courts.

The tennis courts are located east of a car park serving Delancey Park and is bounded by residential development to the north, mature landscaping to the south, and what appears to be agricultural land to the east of the site.

The site is located within a Conservation Area, Main Centre Outer Area, and is recognised as being an area of Important Open Land as designated in the Island Development Plan. To the south of the tennis courts lies an Area of Biodiversity Importance.

Relevant History:

PREA/2021/0283	Construct cycling Pump Track on site of tennis courts	Pre-app advice
PREA/2018/1692	Tarmac tennis court surface to provide basic motorcycle training	Pre-app advice
PREA/2016/1013	Development of Multi-Use Games Area and cafe on existing tennis court.	Pre-app advice

PREA/2015/1874	Restore tennis courts and change of use of pavilion to a small kiosk/cafe and outside serving area.	Pre-app advice
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Existing Use(s):

Delancey Park, tennis courts - Public amenity use class 19: non- residential establishments (a place of public assembly).

Brief Description of Development:

Planning permission is sought to remove tennis court hard surfacing and alter landscaping to create a 'pump track', install timber benches with associated landscaping around the perimeter. No artificial flood lighting is required and the hours of use will be between 'dawn until dusk'. It is noted that *pump tracks can be made from hard-surfaces or dirt, although the chosen approach (asphalt) is to use hard-surface that will be durable, long lasting and requires minimal maintenance.*

The application has been supported by a letter from the constables, Guernsey Velo Club and a statement by the Police

No change of use is required as the site was once used as 3 outdoor tennis courts and will still be used as a sports facility as part of this application, albeit for a different sporting nature, as a bicycle pump track.

The application was deferred as additional information was sought to better understand the potential impact on the amenity of neighbouring residents and the nature of the development.

The agent has employed an acoustic consultant who has provided additional information in attempt to overcome the reasons for deferral.

Relevant Policies of any Plan, Subject Plan or Local Planning Brief:

MC1 Important Open Land in Main Centres and Main Centre Outer Areas
MC9(A): Leisure and Recreation in Main Centres and Main Centre Outer Areas - New, and Extension, Alteration or Redevelopment of Existing Uses
GP1 Landscape Character and Open Land
GP8 Design
GP9 Sustainable Development
GP4 Conservation Areas
IP8 Public Car Parking

Representations:

The Authority has received 3 letters of representation from 3 parties objecting to the original proposal. Grounds for objection principally relate to the following issues:-

- Use of the area should be for sport and fitness events, including multi-purpose sports court.
- A purpose built skateboard/bicycle ramps were installed nearby which fell into despair and subsequently removed.
- Limited participants and not for all members of the public, and out of character with the park.
- Promote anti-social behaviour and indirect consequences.
- Car park provision and condition.
- Noise.
- Height of the track and visibility from nearby apartments until landscaping is established.
- Only appeals to one interest group.
- No public consultation or commercial testing of the proposed use and the relationship between the owner and applicant.

The Authority has received 3 letters of representation from 3 parties objecting to the additional received. Grounds for objection principally relate to the following issues:-

- Exclusion of skateboarders.
- Noise.
- Dual surface for bicycle and skateboards should be retained.
- Bicycle racing events within Delaney Park, car parking issues.
- Multi-purpose facility is needed.

Consultations:

The Office of the Committee for Education, Sport & Culture – 21st February 2023

“Thank you for your letter dated 2 February inviting comment on this application.

Recreation Services is aware of the intentions of the Guernsey Velo Club regarding the development of a bicycle pump track within the old tennis courts at Delaney Park and is generally supportive of the application for the following reasons:

- *Demand for tennis on Government operated sites has reduced in recent years and the loss of this facility is very unlikely to have any impact on the sport for the foreseeable future which is ably catered for at both Beau Sejour and within the private sector;*
- *As detailed in the application, the area concerned is currently in a very poor state of repair and it is believed that the proposals represent a good opportunity to enhance the site as well as support the development of cycling in all its forms, and;*
- *As also referenced in the application it is acknowledged that these types of facilities play an important role in attracting people to the sport*

However, whilst supportive of the proposals, it is unclear from the accompanying papers if the works will include the removal of the existing fencing. As this is currently in a poor state of repair we would hope that it could be removed given that it would no longer be required to serve its original purpose.

Also, and while we note that it is not requested within the application, we would be supportive of the large tree on the western boundary of the site being removed given its disproportionate size and the potential risks it could cause to the site and other associated infrastructure in the future.

I hope these comments are helpful. Once again thank you for giving me the opportunity to comment on this application.”

The Office of Environmental Health and Pollution Regulation – original comments – 16th February 2023:

“I have reviewed the proposed plans for the removal of the tennis court hard surfacing and alteration of landscaping to create a bicycle pump track, plus install benches and landscaping at the above site.

I have concerns that noise from use of the proposed track will impact nearby residents. We have historically received noise complaints relating to the use of skate parks in both Guernsey and Alderney and whilst I understand that this is a cycling track with different construction materials, the impact of noise from all types of users mentioned in the proposals will need to be considered.

There is currently insufficient information for me to comment fully on the proposals and I would welcome the following information:

1) A noise impact assessment should be carried out which considers all potential noise sources and possible mitigation measures. I would recommend that the applicant contacts an acoustic consultant and I enclose a list of consultants who are prepared to carry out work in Guernsey. Please note that inclusion on the list does not infer any kind of recommendation by this department. The applicant might also want to consider liaising with their preferred provider, Velosolutions, who may have experience in working with other acoustic consultancies on the specific type of proposed installation. I would expect any acoustic report to include and consider the following at a minimum:

- The potential for skateboard usage*
- Possible impact noise*
- Noise from people using the facility*
- Times of use*
- The proximity to residential properties*

2) How use of the area will be monitored and managed.

- 3) *Opening/operating hours of the track, including whether use of the area will be prohibited at night-time.*

Should further information be submitted I would be happy to look at this and provide further comments on this application.

I would be grateful if these issues are considered during the determination of this application.

Please contact me at the above address if you require any additional information regarding this matter."

The Office of Environmental Health and Pollution Regulation - Revised comments -21st August 2023:

"I have reviewed the additional information submitted on behalf of the applicant by their agent, DRP Architecture. This includes both their letter dated 21st July 2023 and the noise impact assessment report, produced by Aura (Sound & Air) Limited, dated 13th July 2023, ref. M79.1 V1. I continue to have concerns that noise from skateboard use of the proposed pump track will impact nearby residents. Based on the findings of the report and statements within the agent's letter, there is currently insufficient information submitted for me to fully assess this application.

The report produced by Aura is quite clear that skateboard use at the pump track is likely to cause an adverse impact to neighbouring residents. There is no offered mitigation for this by the applicant, nor any assurance that the recommendations in the noise impact assessment report will be followed.

In the Discussion section of the noise impact assessment report, at 8.5, it is stated that "... the presence of even a small number of skateboards is likely to generate a negative impact. While the pump track is primarily designed for bicycles, it is recommended that skateboarders are deterred from using the space." In the Conclusion of the noise impact assessment at section 9.0 it is stated "...the introduction of skateboard use is expected increase the risk of adverse impact."

I then note from the letter from DRP Architecture, that "...it is not intended for skateboard use to be prohibited...". This contradicts the findings of the report that the applicant commissioned about noise impact from skateboards.

In the Discussion section of the noise impact assessment, it is stated: "Due to the close proximity of the nearest neighbour and the elevation of the second-floor apartment, noise mitigation options are limited. As the use of skateboards are expected to exceed target levels, we recommend considering a surface material that hinders the use of skateboards, such as a resin bonded rubber flooring."

It is also confirmed in DRP Architecture's letter that the opening hours of the proposed track would be as per the initial application. This was stated in the initial

submission of documents as “...the standard Delancey park opening hours of dawn till dusk.” I further note from the most recent letter that the track “will not operate on controlled access”.

It is disappointing that the applicant has not offered any mitigation for attenuating noise from skateboard use of the track, which they do not intend to limit or prohibit. I would request that the applicant considers the recommendations in the report to deter skateboarders from using the track, using a surface material that hinders use of skateboards, or by using any other attenuation measures.

I would also request the applicant to consider controlling access to the track. The current proposal means the track can be accessed by anyone at night-time, including those wanting to skateboard and we would advise that measures are put in place so that the track cannot be accessed during night-time hours. I would ask that the hours of use are revised and provided, plus how access restriction will take place. I would suggest that 7am - 10pm is a reasonable time to restrict access.

Further, I would request that that the applicant provides sufficient signage promoting the terms of use for the track as a bicycle facility. I recommend that promotional activities are also undertaken to let the public know it is a cycling track.

Should further information be submitted, I'd be happy to look at this and provide further comment. I would be grateful if these issues are considered during the determination of this application.

Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.”

Summary of Issues:

- Whether the loss of the tennis courts is acceptable.
- Whether the design of the proposed development is acceptable.
- The impact of the development on the character and appearance of the area.
- The impact of the development on neighbour amenity.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

The following policies have been outlined for contextual purposes, although not all of the relevant policies are outlined below.

Policy GP4 (Conservation Areas) states that proposals for development within a Conservation Area will be supported where the development conserves and, where possible, enhances the special character, architectural or historic interest and appearance of the particular Conservation Area.

Furthermore, it is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting Conservation Areas that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that Area.

Policy MC1 (Important Open Land in Main Centres and Main Centre Outer Areas) states that within areas identified as Important Open Land, *development will only be supported where:*

- a. it relates to new outdoor formal recreation or informal leisure and recreation; or,*
- b. it relates to the rebuilding, extension or alteration of existing buildings or structures; and,*
- c. in all cases, the resultant development would not have a significant adverse impact on the open character, visual quality or landscape character of the Important Open Land.*

Policy GP8 (Design) requires a 'high' standard of design in highly sensitive areas such as Conservation Areas.

MC9(A) (Leisure and Recreation in Main Centres and Main Centre Outer Areas - New, and Extension, Alteration or Redevelopment of Existing Uses) states that:

In Main Centre Outer Areas, new facilities for Outdoor Formal Recreation or Informal Leisure and Recreation, or facilities to support existing provision, will be supported provided that any built development is ancillary to the leisure or recreation use and kept to a scale consistent with the requirements of the leisure or recreational activity.

Within areas identified as Important Open Land, development will only be supported where:

- a. it relates to new outdoor formal recreation or informal leisure and recreation; or,
- b. it relates to the rebuilding, extension or alteration of existing buildings or structures; and,
- c. in all cases, the resultant development would not have a significant adverse impact on the open character, visual quality or landscape character of the Important Open Land.

Design

Whether the loss of the tennis courts is acceptable:

It is apparent that the use of the tennis courts ceased on site a number of years ago. As set out above, no change of use is required as this aspect of the site will remain for leisure and recreation purposes, albeit the nature of the sport will change. Consequently the alternative use of the application site as a 'pump track' would be acceptable under policy as the built development proposed i.e. benches, raised ground levels etc would be ancillary to the leisure and recreation use of the proposed activity for the purposes of Policy MC9(A).

Whether the design of the proposed development is acceptable:

The proposed pump track will naturally vary in height across different parts of the site to create interest and variation in the layout of the pump track. The overall height of the site is considered to be marginally higher than the tennis courts, and no physical buildings or structures to the land are proposed, apart from the installation of benches to the south and west of the site which will have a negligible effect on visual amenity. Consequently, the design of the scheme appears to respond to the nature of the development whilst respecting the character and appearance of the Conservation Area.

It is also noted that the proposed landscaping to the north and east of the site is a welcomed addition to the scheme in order to 'soften' the appearance of the development into its surroundings, whilst improving the boundary treatment between neighbours and the development site, and resulting in bio-diversity net gains.

With regards to MC1, there will be no significant adverse effect impact on the open character, visual quality or landscape character of the Important Open Land when taking into account the limited physical alterations to the site. Conditions regarding the retention of trees on site whilst during the construction phase of the development is considered necessary and reasonable as set out below.

Overall, the proposed development adopts a 'high' standard of design for the purposes of Policy GP8 in terms of the layout, size and height of the track whilst respecting the distances to neighbouring properties.

Neighbour amenity:

The Office of Environmental Health and Pollution Regulation have raised no issues with the proposed use of the site as a bicycle pump track as the noise generated is likely to be similar to that of the former tennis courts: *"This level (associated with the former tennis court use) is 2dB higher than the predicted level of the pump track when used by BMXs only."*

The design of the scheme has been carefully considered to take into account the potential effect on the amenities of neighbouring residents. By offsetting the track away from the north boundary, and incorporating benches on the opposite side (south) and west of the track demonstrates that the proposal, in respect of bicycle use, has been carefully designed to minimise potential noise nuisance.

In addition, a 1m wide landscaping scheme has been proposed along the inside of the north boundary which, to some extent, may help to minimise noise nuisance and providing a visual screen (once mature) to the nearest part of the site when viewed from the neighbouring apartments. The planting zone also wraps around the east boundary of the site.

A further 4m wide, soft landscaped buffer will link the boundary treatment and the edge of the track, thereby creating a total, 5m wide, buffer between the edge of the track and the respective north and east boundaries.

The Office of Environmental Health and Pollution Regulation have set out their concerns regarding the use of the track by skateboarders by the potential noise nuisance that this could have. They are also disappointed that no mitigation measures have been put in place to restrict skateboarder use. Whilst Environmental Health have sought to control the use of skateboarders from using the proposed track, the agent has set out in their letter (dated 21st July 2023) that the accessibility of the track will not be controlled, like the rest of the park, and that the pump track is designed as a community project and will be managed in the same way as any public space i.e. through early engagement from Guernsey Police.

Whilst the Office of Environmental Health and Pollution Regulation have suggested to incorporate a resin bonded rubber surface material to deter skateboarder users, attaching a condition to control the surface of the track is not considered reasonable in this case, in Planning Law terms, given that the proposal has been specifically designed with an asphalt surfaced designed for bicycle provision due to its hard-wearing use, durability, limited maintenance qualities, and that no attempt has been made from the agent or applicant to control or limit the use of the track to bicycles only, given that it is a community project. It is also not clear whether a resin bonded rubber surface would be appropriate for a 'pump track', which itself would not be reasonable to condition when such material may not be suitable. The agent's letter of 15th September 2023 states *that Pump Tracks can be made from hard-surfaces or dirt* which does not explicitly indicate resin bonded materials.

It is also important to note that skateboarders wishing to use the track would be an indirect consequence of such facility, something that has not been designed for this purpose. It is also a possibility that skateboarders don't use the site, for whatever reason, therefore attaching conditions to alter the surface material would not be reasonable or necessary. For example, a specifically designed skatepark is available at Cambridge Park and therefore a pump track specifically designed for bicycles may not be highly attractive for such user.

It is however, reasonable to attach a condition to the decision to ensure that appropriate signage is erected to the front of the track in order to outline the terms of use of the track including hours of use, and its 'intended' use for bicycle provision only, as indicated by Environmental Health and the acoustic consultant's report whereby it is noted that *'it is recommended that skateboarders are deterred from*

using the space'. This would be used as an informative notice to any members of the public wishing to use the space and should help to minimise any impact on neighbouring residents as an indirect consequence of building a 'pump track'. It is also re-assuring that the agent has included a statement by the Police noting that the site would be subject to early engagement patrols as part of the opening period of the track, although it is acknowledged that this would fall outside of the remit of Planning Practice.

Despite the acoustic report seeking to deter skateboarders from using the space, the applicant is not seeking to follow through with this recommendation to restrict access, or to incorporate a resin-bonded surface to mitigate potential noise issues.

With regards to skateboard use, the Office of Environmental Health and Pollution Regulation have set out that *'the assessment has been based on what is considered to be a worst-case, whereby a total of 6 No. people will be using the pump track for all 16 hours of the day' (07:00-23:00)*. Whilst it is useful to understand the worst-case scenario and it recognises the limitations of this possibility given that *'this is unlikely to be the case –especially during weekdays where potential users are more likely to be preoccupied with work or school'*, it would appear that this scenario hasn't factored in the lack of artificial floodlighting. Consequently, during the autumn, winter, spring periods, usage would be further restricted due to the limited number of daylight hours available, particularly during the winter months. It is also noted in section 7.3 that *the prediction modelling is approximate and has used averages of time varying values. Some variation between the levels experienced on site and the predicted levels should be expected*. This would indicate that the levels could be higher or lower based on the modelling variables. It is also clear that the number of people using the site would have to be 4 or more people at any time to have a 'negative' impact, with 1-3 skateboarders having a 'negligible' to 'moderate' impact. It is also noted that other assessment guidelines in section 8.2 and 8.4 result in different outcomes.

However the exclusion of a user group from the facility when there is no intention from the applicant or agent to do so, or restricting an individual's right to exercise within a public space, would not represent good planning practice whereby planning itself is used as a tool to isolate certain demographics or users from utilising a space. Consequently, an informative sign regarding signage is a reasonable balance to strike between limiting the potential effect on neighbouring residents, whilst respecting the rights of those users that may wish to utilise the track for skateboarding and could be policed appropriately (which itself is outside of the remit of planning practice).

It is also noted that notwithstanding any planning consent that may be granted, the Office of Environmental Health and Pollution Regulation retains the ability to take action under public health legislation should noise nuisance complaints arise.

Should the applicant wish to include a restricted access system by a form of physical development to deter skateboarders, or incorporate floodlighting this is likely to require a separate application and would be assessed on its own merits.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

Car park:

The proposal retains the existing car park towards the east of the site, adjacent to the proposed bicycle pump track. In response to the representations received, there is no intention to increase parking provision or improve the quality of the car park. Due to the similarity between the proposed use of the pump track and the former tennis court for recreational purposes together with its accessibility within a Main Centre and nearby on-street car parking, there is no requirement under Policy to increase or improve the quality of existing car parking provision.

All representations received have been carefully considered and where appropriate are addressed above.

Conclusion:

In summary, the use of the track for its intended use as a bicycle pump track would have no increased effect on neighbouring residents when compared to the former tennis courts. The indirect, and possible use by skateboarders, has the potential to adversely affect the amenities of neighbouring residents which has been carefully considered, however the degree of harm is not considered to be 'significant' to reasonably justify refusal, particularly when considering the factors set out in the assessment above, such as limited hours of skateboard use during periods of the day, and over the course of the year.

3 - General material considerations set out in the General Provisions Ordinance.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

Protected trees:

It is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting trees, to secure so far as possible that the existing trees are protected and, where appropriate, that new trees are planted and protected.

The protected trees, subject to a Tree Protection Order, located on the northern side of the north boundary of the site are not considered to be adversely affected as a result of the development given that they are separated by a granite wall with, presumably sufficiently deep foundations. Consequently, the potential effect of resurfacing and re-profiling the site, together with the landscaped buffer along the north boundary, is unlikely to significantly adversely affect their physiological health to require a consent for their protection as they fall outside of the application site.

It is considered reasonable and necessary to ensure the retention of trees on site whilst during the construction phase of the development, subject to a detailed landscaping plan being submitted to identify their position and method of protection.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies, accords with the purpose of the Law, and the requirements of the material considerations; it is therefore recommended that planning permission be granted, subject to conditions

Date: 25/08/23