



## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 22<sup>nd</sup> February 2018

Subject: 17/07407/FU – Installation of outdoor fitness equipment at the Playground, Kirkhills, Thorner, LS14 3JD

APPLICANT	DATE VALID	TARGET DATE
Thorner Parish Council	23 <sup>rd</sup> November 2017	18 <sup>th</sup> January 2018

#### Electoral Wards Affected:

Harewood

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:

1. 3 year time limit for commencement;
2. Plans to be approved;
3. Colours to be as outlined within the application and maintained as such

#### 1.0 INTRODUCTION:

- 1.1 This application seeks planning permission for the installation of outdoor fitness equipment at the Playground, Kirkhills, Thorner, LS14 3JD, which is situated in Thorner's Conservation Area. Councillor Matthew Robinson has requested that the application is brought to Plans Panel due to concerns raised by residents about the impact of the development upon the broader character and amenity of the area.
- 1.2 The application proposes six pieces of fitness equipment, situated next to the existing playground, in an area of open space within the center of Thorner.
- 1.3 As will be outlined below the proposal is not considered to cause harm to the character of the conservation area, visual amenity nor neighbouring amenity and as

such complies with the relevant policies and guidance and is recommended for approval.

## **2.0 PROPOSAL:**

- 2.1 The application proposes the installation of outdoor fitness equipment adjacent to the existing playground.
- 2.2 The proposed equipment, with the exception of the chin up bars at 2.3m, are below 2m in height. The equipment is constructed of powder coated metal painted beige and green. The area of grass around each piece of equipment will be reinforced with honeycomb lawn matting to allow the grass to continue to grow. The equipment includes:
- Chin-up bars measuring 3.1m (w) by 0.3m (d) and 2.3m in height;
  - Double air walker measuring 2.2 (w) by 0.5m (d) and 1.2m in height;
  - Bicycle measuring 1.1m (w) by 0.5m (d) and 1.3m in height;
  - Parallel bars measuring 2.5m (w) by 1.1m (d) and 1.5m in height;
  - Air skier measuring 1.2m (w) by 0.8m (d) and 1.4m in height;
  - Combined pull down challenger and seated chest press measuring 2.3m (w) by 1.1m (d) and 2m in height.
- 2.3 The equipment has been positioned so that users face away from the footpath and properties to the south on Moat End.
- 2.4 The bushes, to the west, are proposed to be pruned to create sufficient room for the equipment.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to an existing open recreational space. The Parish Council own the land. The proposed outdoor fitness area will be accessed via the footpath which links the Millennium Green to the West with Kirk Hills to the East.
- 3.2 The proposed site forms part of a wider area of open space within the center of the village bounded by the churchyard, a stone wall and trees to the north. St Peter's Church is Grade II listed. The existing children's playground is to the east and beyond the footpath to the south are residential properties. To the southern boundary, of the open space, there is established vegetation which marks the boundaries of properties within the Moat End development.
- 3.3 The application site is identified as been located within Character Area two of the Conservation Area Appraisal and Management Plan (CAAMP). The CAAMP acknowledges there is a variation, of architectural characteristics, within this character area which adds to the feel of the area as a whole. The area around Church View is arguably the most historic area of Thorne. What may once have been a focal point of the activity within the village, the area represents a gateway into Main Street. The majority of the movement through the area is vehicular, though pedestrians frequent during most of the day. The architecture in this area, particularly around Church View, is on the whole historic, though infill development has taken place. The majority of this respects the historic palette of materials and positioning of historic structures.
- 3.4 The CAAMP identifies that the sense of space changes towards the eastern end of

Thorner and states: *open space for the first time becomes more dominant. The large open public space around Stead Lane and Church View adds a variation into the character of the area. The open space does not dominate as much as the building line does, but views in and around it make the space more open and comfortable.* The CAAMP categorises the application site as the main open green space and the area functions as a pleasant open space, with ornate planting around a seating area as well as mature tree growth.

#### **4.0 RELEVANT PLANNING HISTORY:**

- |     |               |  |
|-----|---------------|--|
| 4.1 | 17/05139/FU   | Installation of playground equipment<br>Approved   |
|     | 17/07223/COND | Consent, agreement or approval required by conditions 3 and 4 of Planning Application 17/05139/FU<br>Approved                          |
|     | 18/00033/FU   | Variation of condition 2 (approved plans) of approval 17/05139/FU for Minor Material Amendment to allow wooden swing frame.<br>Pending |

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 None.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application has been advertised as affecting the character of a Conservation Area by site notice posted on 15 December 2017, within the Yorkshire Evening Post on 15 December 2017 and also by neighbour notification letters sent on 1 December 2017.
- 6.2 Councillor Matthew Robinson has highlighted residents are concerned about the impact the development will have upon the broader character and amenity of the area.
- 6.3 Fourteen objections and one general comment from twelve properties have been received. Resident's issues raised are summarised below:
- Proposal too close to residential properties;
  - Other more appropriate locations;
  - Similar facilities elsewhere under-utilised and often in disrepair;
  - Equipment not suitable for UK climate;
  - Parks officer from Leeds City Council stated the development is too small and contravenes health and safety regulations;
  - Impact on residential amenity in terms of: evening use, gathering point for older children, noise, privacy issues, impact safety and security and vandalism;
  - Inappropriate location in quiet and tranquil part of the village, would seriously compromise the tranquil vista of what is the main thoroughfare between the village centre and housing estate;
  - Affect church yard where people tend to the graves and expect peace and quiet;

- Affect trees;
- Equipment not wanted and won't get used;
- Health and safety concerns due to adjacent children playground;
- Overdevelopment;
- Impact aesthetics of the centre of village where there is an uninterrupted view of the church;
- Affect character of the Conservation Area;
- Village Design Statement states village green is a protected area;
- Proposal too close to footpath;
- Not produced viable business case;
- No direct evidence showing Parish Council worked with organisations;
- Lack of consultation;
- People exercising in potentially 'body revealing' clothing close to children;
- Comments relating to the playground planning application (reference 17/05139/FU);
- Leeds City Council won't maintain equipment;
- Removes green space that people, dogs and children use as a recreational area.

## **7.0 CONSULTATIONS RESPONSES:**

- 7.1 Nature Conservation have not objected to the planning application and consider there should be no significant conservation concerns with this application.
- 7.2 Landscape consider the gathering of the equipment near the play area has the benefit of leaving the main body of the green space as a softer, more informal space, characterised by grass, trees and planting. The fitness equipment should respect the overall character of the green space.
- 7.3 Highways have not raised any objections; the proposal is acceptable in highway terms.
- 7.4 Conservation consider the proposal should contribute and preserve the character of the wider area. The equipment is to be installed next to an existing children's play area therefore this type of installation is already part of the public views and church's setting. The colour choices are suitable.

## **8.0 PLANNING POLICIES:**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and any made Neighbourhood Development Plan. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires development, as a whole, to preserve the appearance and character of Conservation Areas.

### Local Planning Policy

- 8.2 The following Core Strategy policies are relevant:

P9: Seeks to protect community facilities.

- P10: Seeks to ensure that new development is well designed and respect its context.
- P11: Seeks to ensure that the city's heritage assets are preserved and enhanced
- P12: Seeks to ensure landscapes are maintained.
- T2: Seeks to ensure that new development does not harm highway safety.
- G3: Seeks to determine the adequacy of existing supply and appropriate provision of new open space.

The following saved UDP policies are also relevant:

- GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- N1: Protects greenspace.
- BD5: Seeks to ensure new development protects amenity.
- LD1: Seeks to provide appropriate landscaping and to protect existing vegetation
- N19: All new buildings and extensions within or adjacent to conservation areas should preserve or enhance the character or appearance of the area by ensuring that:
- i. The siting and scale of the building is in harmony with the adjoining buildings and the area as a whole;
  - ii. Detailed design of the buildings, including the roofscape is such that the proportions of the parts relate to each other and to adjoining buildings;
  - iii. The materials used are appropriate to the environment area and sympathetic to adjoining buildings. Where a local materials policy exists, this should be complied with;
  - iv. Careful attention is given to the design and quality of boundary and landscape treatment.
- BC7: Development within conservation areas will normally be required to be in traditional local materials.

#### Supplementary Planning Documents/Guidance

SPG13 Neighbourhoods for Living (adopted December 2003 (memorandum 2015))

Thorner Conservation Area Appraisal and Management Plan (approved as a material planning consideration 2009)

Thorner Village Design Statement (approved as a material planning consideration 2011)

Thorner Neighbourhood Plan – Pre submission draft under preparation

#### National Planning Policy

- 8.3 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework (Framework) must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

- 8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF. Sections 7 (Design) and 12 (conserving and enhancing the historic environment) are relevant to the consideration of this application.
- 8.5 The Planning Practice Guidance (PPG) in March 2014 provides comment on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary, relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects.

## **9.0 MAIN ISSUES**

- 1) Principle of Development
- 2) Design and Character / Conservation Areas
- 3) Residential Amenity
- 4) Highway Safety
- 5) Landscaping
- 6) Other Matters
- 7) Representations

## **10.0 APPRAISAL**

### Principle of Development

- 10.1 Following the government's 'Sporting Future' strategy launched in December 2015, Sport England launched their own 'Towards an Active Nation' strategy in May 2016. Their vision being for everyone in England regardless of age, background or level of ability to feel able to engage in sport and physical activity. Furthermore, Policy P9 of the Leeds Core Strategy seeks to encourage access to community facilities including outdoor recreation, and identified the positive impact such facilities and services can have upon the health and wellbeing of a neighbourhood.
- 10.2 Thorner Parish Council hope that the provision of outdoor fitness equipment in the centre of the village will support both the local and national vision, by providing a facility suitable for residents of all ages, fitness, abilities and mobility levels to engage in free outdoor physical activity. The outdoor fitness equipment functional purpose is to encourage physical activity.
- 10.3 Policy G3 of the Core Strategy sets out the open space standards for the city. As is identified within the table it is expected that per thousand people 1.2 hectares (excluding education provision) of outdoor sports provision should be available, and the supporting text notes that the Council will aspire to maximize recreation near to where people live.
- 10.4 Thorner is a residential settlement of approximately 1500 people and thus to comply with the open space standards of the Core Strategy at least 1.2 hectares (excluding education provision) of outdoor sports provision should be located within

the village, and these should be within areas that are sustainable, accessible and close to where people live.

- 10.5 The application site is located within the centre of the village and is described by the Parish Council as being located within the 'heart of the village' in their Design and Access Statement. This site is adjacent to open recreation space, in an area that people are encouraged to access by foot, close to the primary school and housing. As such the proposal is considered to be situated within an accessible and sustainable location within the village. As policy G3 requires the provision of at least 1.2 hectares (excluding education provision) of outdoor sports provision per thousand population, this suggests that for a village of approximately 1500 people there should be at least 1.8ha of such facilities.
- 10.6 The Thorner Village Design Statement states that the site is a protected green space. Saved Policy N1 of the Leeds UDP (Review 2006) seeks to protect greenspace and development will not be permitted for purposes other than outdoor recreation. The outdoor fitness equipment complies with this policy as it is a form of outdoor recreation.
- 10.7 As such the principle of the fitness equipment is considered acceptable.

#### Design and Character

- 10.8 The National Planning Policy Framework (the Framework) at Section 7 states that "good design is indivisible from good planning" and authorities are encouraged to refuse "development of poor design", and which "fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted". As noted in the Site and Surrounding section the application site is located within Thorner's Conservation Area. St Peter's Church, to the North of the application site, is identified as a positive listed building, along with other positive and listed buildings forming the frontage along Main Street. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. That statutory framework is reinforced by the Framework at Section 12. Core Strategy policy P11 and saved UDP policy N19 reflect this special duty and seek to ensure that development is appropriate to its context and preserves the city's heritage assets. This duty is also carried forward in Core Strategy policy P10 and saved UDP policy GP5 which seek to ensure that development is of high quality and appropriate to its context.
- 10.9 The proposed fitness equipment is located in the Thorner Conservation Area, as such its contribution to the character of the wider area needs to be preserved. The CAAMP states to be successful any future development within the conservation area needs to be mindful of the local character of the village, while at the same time being distinctly of the 21<sup>st</sup> Century. Objection comments raise concern relating to the impact the proposal would have on the character of the Conservation Area and the listed church. The proposed site is off a public footpath and adjacent to the Grade II listed St Peters Church so consideration of the public views and church's setting is necessary. It is recognised that the proposal will have an impact upon the area as it is currently open space and the proposal will change the use of the green space. The application only removes a small proportion of green space and results in a new form of recreation. The equipment is proposed to be installed next to an

existing and established children's play area, therefore this type of installation is already part of public views in this part of the Conservation Area.

- 10.10 The proposed density of pieces of equipment is considered to be appropriate for the size of the site and is not considered overdevelopment. The proposed beige and green colours are considered suitable as they respect the rural location. In addition, the area of grass around each piece of equipment will be reinforced with honeycomb lawn matting. The matting will retain the appearance of the existing grassed area and help mitigate its impact upon the area.
- 10.11 In terms of the proposals proximity to St Peter's Church a stone wall and trees separate the two sites. This helps to ensure the areas are clearly defined with their own curtilage and character. The established playground is already part of the public view from the church's setting. The addition of the fitness equipment is not considered to cause significant visual harm to the character of the area.
- 10.12 Objection comments were also concerned that the fitness equipment would encourage people to spend time in the area and this could result in antisocial behavior which would affect the character of the area. Comments stated noise, generated from people using the equipment, could impact people tending to graves where they expect peace and quiet. There is no evidence that the new fitness equipment would result in an increase in noise levels and therefore it is not considered that the proposal would harm the churchyard and character of the area. It also cannot be assumed that the equipment would result in antisocial behavior. The proposal would result in daytime use; no benches or lighting is proposed that may encourage people, not intending to use the equipment, to congregate in this area. Patterns of activity can have an impact upon the character of the area and it is acknowledged that the fitness equipment is likely to result in an increase in activity. Given the existing playground and that the equipment is located within a large area of public open greenspace, within the centre of the village, there is already a reasonable level of activity within this area. As such, it is not considered that the fitness equipment will cause harm to the general ambience and milieu of the village.
- 10.13 As such the proposed fitness equipment is not considered to be an out of scale, nor an out of keeping addition to the Conservation Area, and is considered to preserve its character. The equipment does not directly reflect a traditional palate of building materials, however it is clear that the colours attempt to respond to the landscape context of the site, and does so in a manner which preserves the character of the Conservation Area. The colours used will be secured by condition. The application is consistent with the aims and intentions of planning policies which seek to protect heritage assets and secure high quality environments. It should be noted that even if Members are minded to consider that the development does cause some harm to the Conservation Area, as directed by paragraphs 133-134 of the Framework local planning authorities should refuse development that causes substantial harm, however where a development is found to cause less than substantial harm this must be weighed against any identified public benefits of the proposal. In this instance the provision of outdoor sports provision is a public benefit which must be given some weight.

#### Residential Amenity

- 10.14 As outlines within Policy P10 of the Core Strategy and saved policy BD5 of the UDP new development must protect residential amenity. As noted above there is a

concern that the proposal may result in antisocial behaviour. Objection comments raised residential amenity issues, these included: evening use, gathering point for older children and noise, these have been discussed above in terms of antisocial behaviour. In addition privacy, safety, security and vandalism issues have also been raised.

- 10.15 There is no dispute that the fitness equipment could result in wider use of the area. The proposed equipment may therefore result in an intensification of people within the space. This could result in an increase in noise levels which may impact upon neighbouring residential amenity. As has previously been acknowledged the equipment is for teenagers and adults and there is already an existing playground adjacent to the site. Noise from children playing in the playground is likely to be more significant. The playground has been in situ since the mid-1980s and is an established part of the village and those living within the vicinity of the site must expect it to be used, and noise levels associated with the open space to be part of the environment. Furthermore, whilst there may be increased activity within the site, for planning permission to be withheld the impacts of the proposal would have to be demonstrably harmful to residential amenity. It is difficult to suggest that noise generated from a small area of outdoor fitness equipment would be so substantial as to have a sustained and unacceptable impact upon the reasonable enjoyment of neighbouring homes and gardens.
- 10.16 Turning then to the matter of anti-social behavior, vandalism, safety and security and the use of the equipment in the evening as a gathering point; it is not easily possible for the planning system to regulate behavior of individuals. Furthermore, it is not possible to refuse permission due to concerns about how people will behave. As such it must be assumed that those using the outdoor fitness equipment will behave appropriately and in a generally sociable manner.
- 10.17 Concern has also been raised about privacy. Several objections referenced the tower that was approved in the adjoining playground (application reference: 17/05139/FU). The tower has been approved and is not for the determination of this application. The proposed equipment, with the exception of the chin up bars at 2.3m, are below 2m in height. It is recognised some of the equipment will be visible from properties in Moat End. Given the low level nature of the fitness equipment and the siting of the equipment positioned so that users do not face into the properties the proposal is considered acceptable. A sufficient distance is maintained between the proposed fitness equipment and nearby properties. The equipment will not protrude further than the existing playground. Hence, it is considered the proposed equipment is sited appropriately.
- 10.18 As such the fitness equipment is not considered to cause significant harm to residential amenity.

#### Highway Safety

- 10.19 Policy T2 of the Core Strategy and saved UDP policy GP5 require that developments protect highway safety. The proposed equipment will be located adjacent to the existing playground. It is anticipated that the majority of users will access the facility on foot, hence it is unlikely that the facility will result in additional street parking within the village. Highways have been consulted and raise no objection.
- 10.20 As such and in this regard the proposal is acceptable.

## Landscaping

- 10.21 Policies P12 of the Core Strategy and saved UDP policy LD1 seek to ensure that the quality and character of Leeds' landscapes are retained.
- 10.22 To the eastern edge of the proposed site is a memorial tree; this will not be affected by the proposal. To the west of the proposed site the shrubs are overgrown and the application proposes to cut these back slightly to improve the look of the area and make space for the fitness equipment. The application will not impact any trees.
- 10.23 Landscape were consulted and stated whilst this type of equipment can be installed in more of a linear trim trail layout along a path network, the proposed gathering together of the equipment near the play area would have the benefit of leaving the main body of the green space as a softer area, characterised by grass, trees and planting. It is acknowledged that the development will have an impact on this green space but the clustering of equipment reduces its impacts. Landscape officers did not require any conditions to be attached to the decision.

## Other Matters

- 10.24 The proposal constitutes development which is deemed to be permitted under Part 12 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Parish Council have permitted development rights, for new equipment on land belonging to them, under 4m in height or 200 cubic metres in capacity. This means the proposal could have been granted under permitted development. However, as a planning application has been submitted it should be determined in relation to national and local planning policies. As this represents a legitimate fallback position, this should be afforded significant weight in the decision making process.

## Representations

- 10.25 All material planning considerations raised by objectors have been discussed above.
- 10.26 Concern has been raised relating to health and safety, whilst this is not a material planning consideration and health and safety is controlled under non-planning legislation, the manufacturer has confirmed that the equipment conforms to safety standards. The standards state: *fitness equipment is not intended for installation in the immediate vicinity of children's playgrounds in accordance with the EN 1176 series. If installed in connection with playground equipment, on playgrounds or similar installations, they shall be separated from general playing activities by an appropriate distance, fencing or other structural measures.* The outdoor fitness equipment will be separated from the children's playground by a fence, which clearly separates the areas, and the entrance to the playground is not directly next to the proposed site. The applicant acknowledges that, whilst the equipment is primarily designed for teenagers and adults, children may be inquisitive and therefore all of the equipment is designed to be safe for all ages. There are no finger entrapments, bumps or crush points on any of the equipment. In addition to the mandatory facilities signage, each piece of equipment will be labelled with instructions for use. Furthermore, as the resistance for the equipment is provided by the user's own body weight, users will always work within their own limits. It is the responsibility of the Parish Council to ensure the equipment complies with relevant health and safety regulations not the planning process.

- 10.27 Objection comments also state there are other more suitable locations for the fitness equipment site. This decision can only determine the application based on the application site. The Parish Council considered alternative locations including other sites on the Millennium Green and a less central site, proposed by some residents, by the Victory Hall. Following concerns raised at the Thorner Annual Parish Meeting, about the visual impact the equipment may have on the views from across the Millennium Green, the Parish Council dismissed the alternative Millennium Green Sites. The Parish Council then issued a survey to all households in the village to establish their preferred site: the proposed site by the playground or the site by the Victory Hall. The majority of responses favoured the proposed site by the playground. Objection comments state the proposal has not effectively consulted residents and organisations. Consultation is good practice but it is not a requirement for a development of this size.
- 10.28 Objection comments highlighted that Leeds City Council will not maintain the equipment. Thorner Parish Council own the land so the onus is on the Parish Council to maintain the equipment to a reasonable and safe condition. The Parish Council have confirmed they are insured appropriately and conduct regular checks.

## **11.0 CONCLUSION**

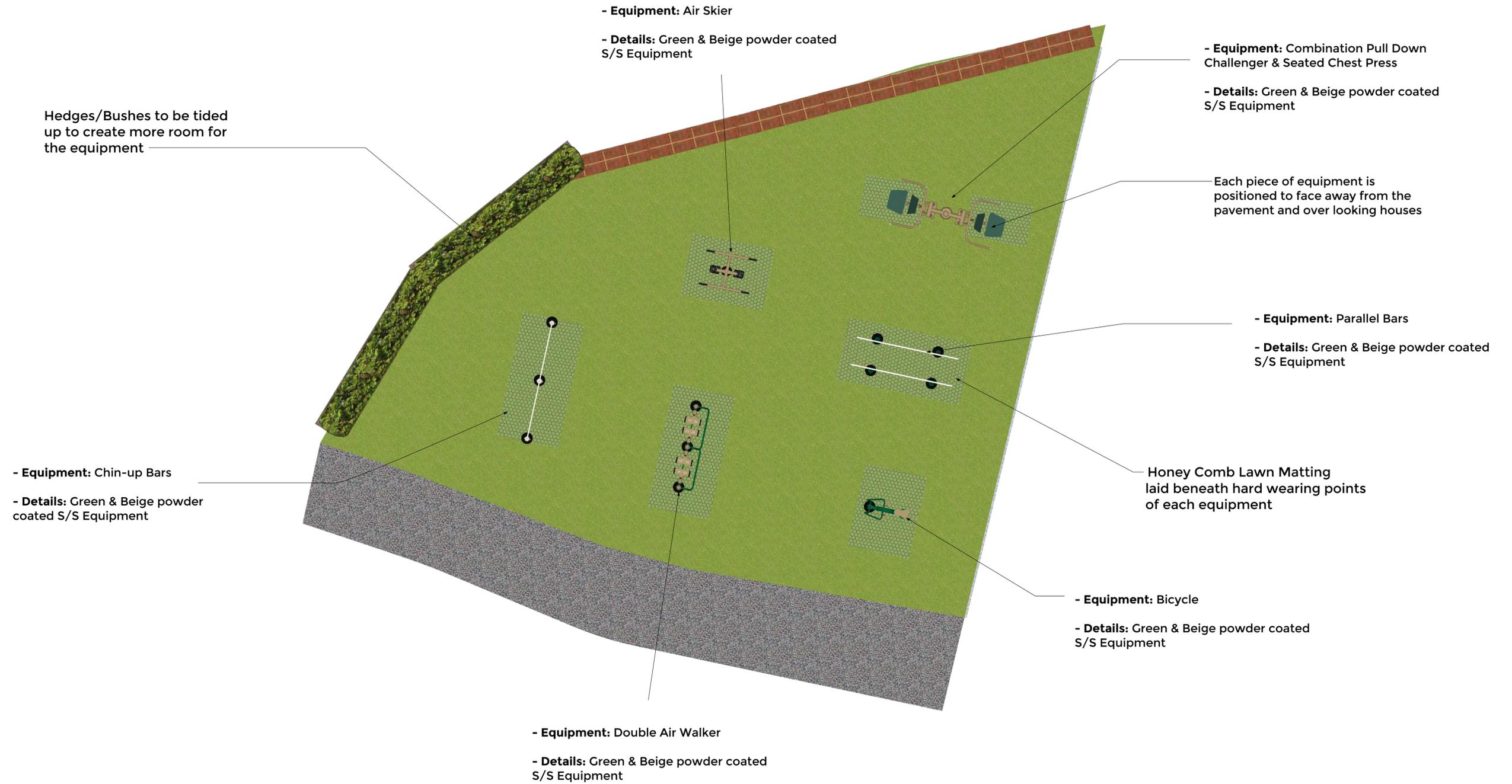
- 11.1 The application is considered to be acceptable. The proposed outdoor fitness equipment is considered to preserve the character of the conservation area and will not cause harm to the broader character nor amenity of the area. As such the application is considered to comply with the aims and intentions of Policies P9, P10, P11, P12, T2 and G3 of the Core Strategy, saved UDP Policies GP5, N1, BD5, N19 and BC7, Sections 7 and 12 of the Framework and guidance within Neighbourhoods for Living, the Thorner CAAMP and Thorner Village Design Statement.

### **Background Papers:**

Application file: 17/07407/FU

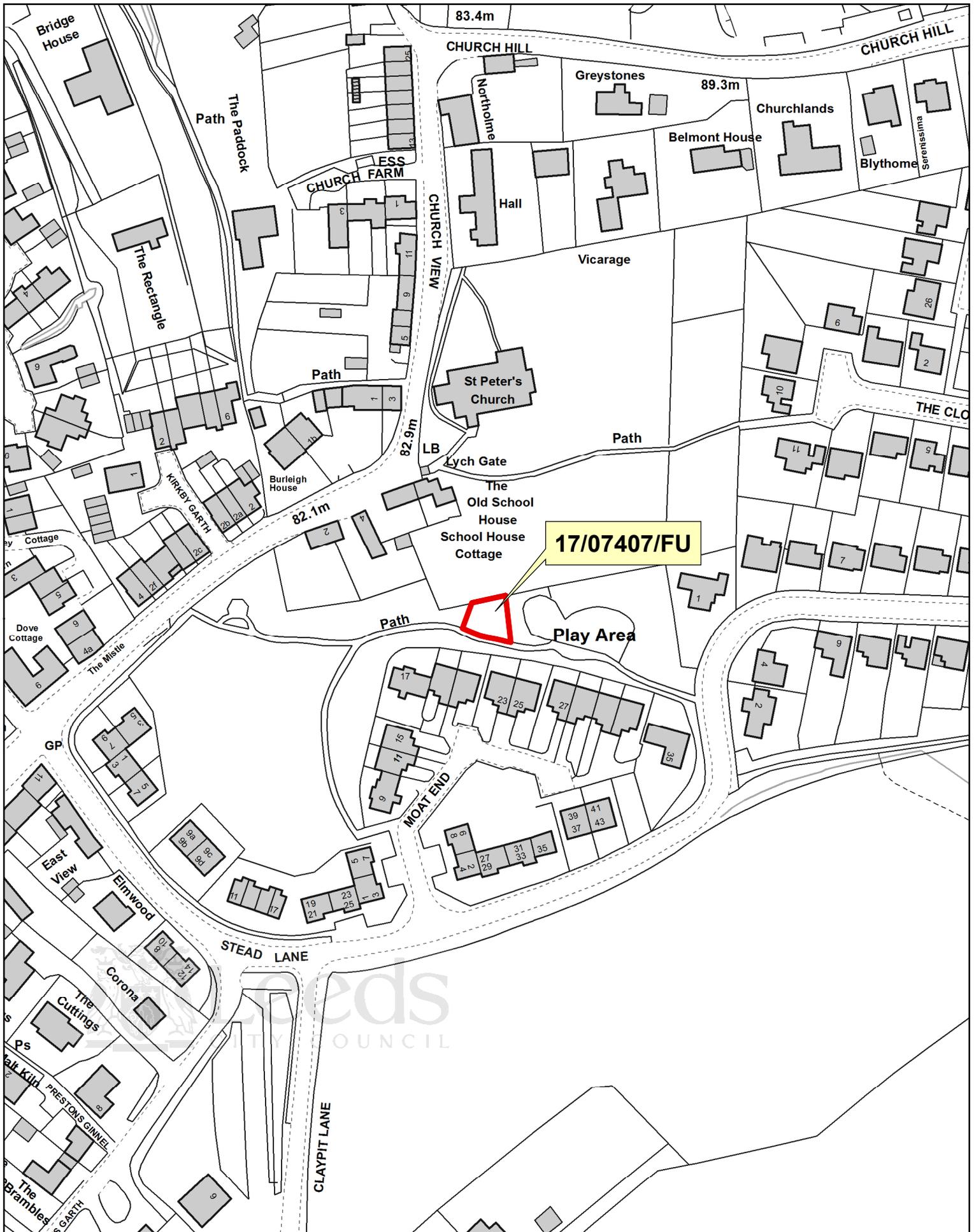
Certificate of ownership: Certificate A signed by the applicant

Plan | Proposed 1:50 @ A1



play-scheme.co.uk	Project : Thormer Parish Council	Date : 21/11/2017
	Scheme Name : Outdoor Fitness Area	Contact : AK
	Drawing Name : Plan View V2	Drawn By : AP
		Ref. No : -
		Revision of : -
	Revision : -	Purpose of Revision : -





# NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

