

**Application Recommended for Approve with  
Conditions  
Rosegrove With Lowerhouse**

**FUL/2021/0755**

Town and Country Planning Act 1990

Change of use from amenity grass to a formal children's play area. The proposal affects and involves the diversion of Public Footpath No. 81

Land On Corner Of Harold Avenue And Valley Street Harold Avenue Burnley Lancashire

**The application has been brought to Planning Committee as the applicant is the Council.**

## **Background**

The site is located within the defined development boundary as designated in Burnley's adopted Local Plan in which policy SP4 applies.

The land is currently designated open space as the extract below shows, forming part of the wider Barclay Hills and Griffin Clough open space. The site sits between residential properties, number 101 Harold Avenue being the closest to the west and number 87 Harold Avenue to the east. The area is approximately 1,050 sqm and is relatively flat in nature with a rise in levels to the north.

The Council's Parks Department state that the area is an under-used amenity green space. As a result of the Play Strategy (2017 – 2027), it was recommended that the play area further along Harold Avenue, that had problems with drainage and flooding, be closed down and railings and any equipment that could be salvaged be refurbished to be re-located on an alternative site nearby. The amenity green space, near the Valley Street Community Centre, was chosen as the preferred alternative location for the new play area and the project was included in the Play Area Improvement Programme for 2021/22.



**Plan extract:** showing the space as allocated open space



**Photo 1:** source [www.google.com](http://www.google.com) taken September 2021



**Photo 2:** Public Right of Way No 82



**Photo 3:** view from Valley Street

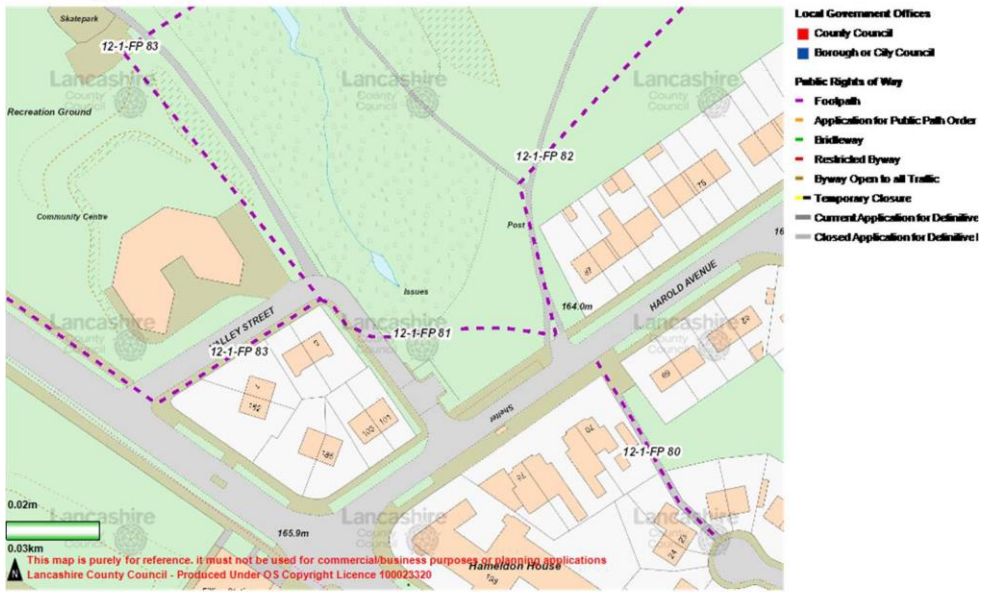
### Public Right Of Way

There are 2 public rights of way which are relevant to the site. Footpath No. 81 cuts diagonally through the site east to west meeting up with Footpath No. 82 which goes along a section of Valley Street and beyond across the open space to the west. Footpath No. 81 will need to be formally diverted.

Footpath No. 82 runs close to the boundary with No. 87 Harold Avenue and takes users over Barclays Hills to the north. It is not considered that this footpath will be affected as part of the proposals.

Footpath No. 81 will need to be formally diverted and initial discussions have been made with LCC PROW. An alternative route has been suggested which will come along Valley Street onto Harold Avenue.





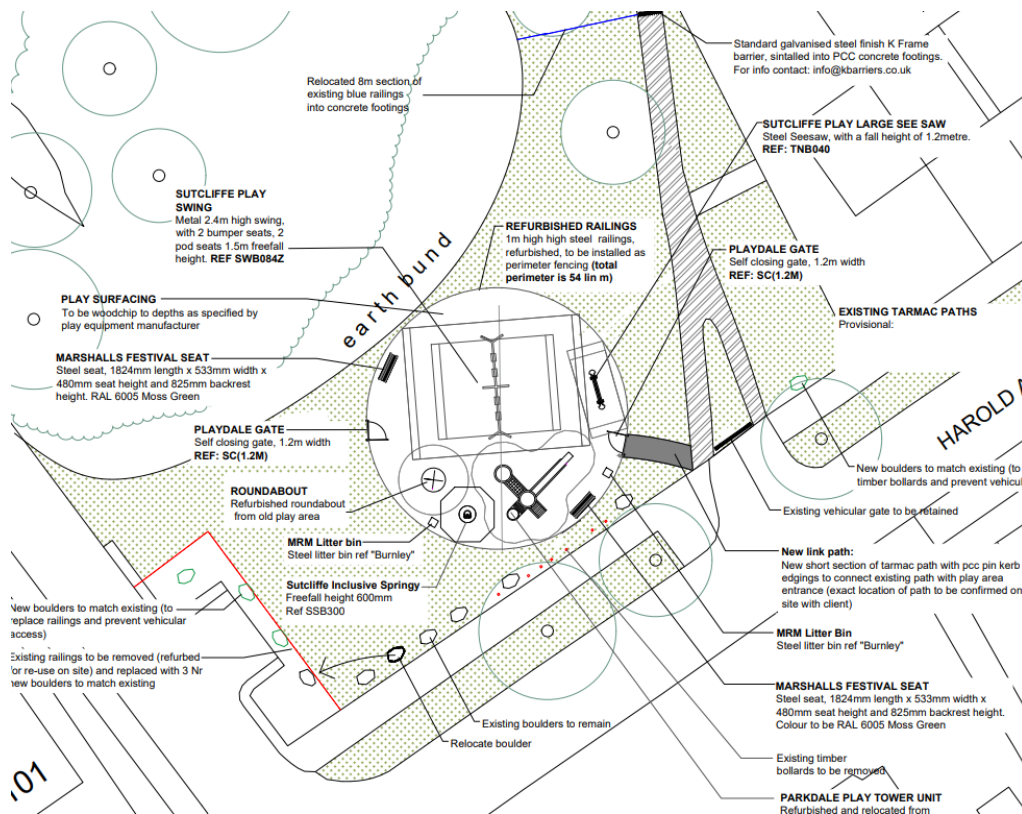
## The alternative route



## Proposal

The application is for a change of use of the existing amenity space to create a formal equipped children's play area. The space will have an enclosed circular metal fencing with a main 1.2m gate to access. There will be various play equipment including 2 benches and 2 little bins. The area around the site will be grassed and existing boulders will be retained, and some relocated to the edge of the site with Valley Road.

A number of new trees (approximately 7) will be planted on the slightly raised area (earth bund) above where the play area will be located providing an attractive outlook from the flat grassed area below.



**Extract Plan:** proposed layout of the play area

## Relevant Policies

### Burnley Local Plan

- SP1 – Achieving Sustainable Development
- SP4 – Development Strategy
- SP5 – Development Quality and Sustainability
- NE2 – Protected Open Space

National Planning Policy Framework 2021

**Site History: N/A**

## **Consultation Responses:**

**LCC Highways** – no objections in principle, note contact to be made with PROW.

*1. The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act. The applicant should be advised to contact Lancashire County Council's Public Rights of Way section by email on [PROW@lancashire.gov.uk](mailto:PROW@lancashire.gov.uk), quoting the location, district and planning application number, to discuss their proposal before any development works begin.*

### Burnley and Pendle Ramblers

Footpath 81 needs formally diverting and suggest that this is done by continuing it along Valley Street and round to meet with Footpath No.82

The blue metal fencing along Valley Street is currently blocking the PROW.

## **Publicity**

No public comments received

## **Planning and Environmental Considerations:**

### **Main issues**

The main issues in the consideration of this application are;

- The principle of development
- design and appearance
- the impact of the development on residential amenity
- Public Right of Way

### **The principle of development**

Policy NE2 of the adopted Local Plan states that;

*1) development will not be permitted within the Protected Open Spaces shown on the policies map except here the proposals are for appropriate recreational, community and nature conservation uses and where any building and structures would not undermine the fundamental purpose and nature of the open space.*

*2) POS should be maintained and enhanced for the recreational, amenity, biodiversity or other benefits they provide and as an important component of Burnley's green infrastructure network.*

The proposal is for a children's equipped play space which is considered to be 'appropriate recreational' use, as such the change of use of land is considered to be acceptable in principle.

### Design and Appearance

Paragraph 126 of the NPPF states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The existing space is open, aside from some boulders around the edge, is free from any permanent structures. There are 2 mature street trees to the frontage with Harold Avenue which will not be affected as part of the proposal and there are a series of further street trees along Harold Avenue which contribute to the overall character of the area.

It is considered that the creation of the park will be a positive contribution to the area and will help support the aims of the national (NPPF para 98) and local planning policy on the promotion of health and wellbeing and access to high quality open space.

### Residential Amenity

Policy SP5 of the adopted Local Plan seeks to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking.

The site is located on a residential street with the nearest property being No. 87 Harold Ave, approximately 14m from the site and 101 Harold Avenue which is 22m to the west. As this is an existing open space where children could play then the use is not considered to have a detrimental impact on neighbour amenity. There may be an increase in noise and general activity, but it is a relatively small area and the relationship with the surrounding properties will create some natural surveillance for the park.

### Public Right of Way

As stated above, a formal footpath diversion will be necessary for footpath No. 81 which cuts through the site. Early discussions with LCC PROW team are positive and that an alternative route along a section of Valley Street would appear to be appropriate and in terms of the assessment of the planning application, it is not considered that the diversion will have any detrimental impact. It is considered that the alternative route would be an improvement and will link better with footpath 83 to the west.

A formal footpath diversion will need to be made under Section 257 of the Town and Country Planning Act 1990.

### Recommendation

The creation of the equipped play area is to be sited on an area of existing under utilised open space. Whilst the proposals will involve the formal diversion of a PROW, an alternative route has been presented which will link into an existing PROW. The proposal complies with policy NE2 of Burnley's adopted Local Plan and the relevant sections of the NPPF (para 98-99)

**Approve subject to the following conditions:**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.