

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

27 January 2016

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

15/2605/VARY

Conyers School, Green Lane, Yarm

Application under section 73 to vary condition no.2 (opening times) to 9:00am to 9:00pm weekdays, 10.00am and 5.00 pm Saturdays and 10:00am to 5:00pm on a Sunday of planning approval 01/1496/P - Provision of all-weather illuminated pitch surrounded by 5m high fence.

Expiry Date 27 January 2016

SUMMARY

This application seeks to vary the Sunday hours of operation of the previously approved all-weather playing pitch facility at Conyers School, Green Lane in Yarm by an additional hour earlier in the morning and an additional hour later in the afternoon.

The planning approval was granted in 2001 for the provision of an all-weather playing pitch surrounded by a 5m high fence (01/1496/P). As part of the decision the hours/days of the use of the facility were conditioned to 09:00 am to 9:00 pm Monday to Friday; 10:00 am - 5:00 pm Saturdays and 11:00 am - 4:00 pm on Sundays. The application seeks to extend the Sunday opening hours by two hours to 10:00 am 5:00 pm.

The Highways Transport and Environment Manager has no objection to the proposal in terms of highway safety, vehicular traffic and car parking. The Environmental Health Unit has no objections to the revised Sunday hours having regard to background noise levels and light intrusion considerations.

Following the neighbour consultation there have been 12 letters of objection received. These objections principally relate to concerns including the following matters: noise, disturbance and the use of foul language; Loss of privacy and a loss of leisure time within residents' gardens; light intrusion from increased use of flood lights; and the use not being suitable for the residential area.

In view of the material planning considerations and the existing use of the site, the proposed variation of Sunday hours is considered to contribute to the health and well-being of the community and would not to have an unacceptable adverse impact on residential amenity due to the limited change to the existing hours of use and therefore the proposal would accord with the general principles of the National Planning Policy Framework and the Development Plan in all other regards.

RECOMMENDATION

That planning application 15/2605/VARY be approved subject to the following conditions and Informative;

Hours of operation – Monday to Sunday

- 01 ***The facility to which this permission relates shall not be open for use outside the hours of 9:00 am to 9:00 pm Monday to Friday and 10:00 am to 5:00 pm on Saturdays and Sundays and excludes use of the site on Bank Holidays.***

Reason: To prevent noise and disturbance in the interests of the amenity of the neighbouring occupiers.

- 02 ***The use of the property shall be restricted to use only by pupils of the School or to members of teams or organisations which are affiliated to their restrictive sports bodies and are also members of a Conyers Sports Association.***

Reason: In the interests of maintaining and controlling the suitable management of the site.

- 03 ***All activities and sports on the property shall be supervised at all times.***

Reason: In the interests of maintaining and controlling the suitable management of the site.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

BACKGROUND

- 01 Several application relating to the existing school in relation to classroom extensions, temporary classrooms, boundary treatment applications and other similar provisions etc. (92/0898/P, 92/1685/P, 94/2470/P, 94/0754/P, 95/1307/P, 97/1773/P, 97/2118/P, 99/0737/P, 99/1951/P, 99/1859/P, 00/0337/P, 00/0904/P, 00/1662/P, 01/0368/P, 01/0745/P, 01/1048/P, 02/2097/P, 02/1214/P, 02/1912/P, 04/3218/RNW, 05/2155/LA, 05/2818/LA, 06/1708/LA, 06/2926/LA, 07/0791/LA, 07/1951/LA, 08/1511/FUL, 08/2418/LA, 09/2738/LA, 11/0121/LAF).

01/1496/P Provision of all-weather pitch surrounded by a 5m high fence.

06/0070/FUL Installation of anti-climb spikes to the top of existing 3m high mesh panel fence around all-weather pitch. Approved 3rd March 2006

SITE AND SURROUNDINGS

- 02 The application site relates to the existing all-weather playing pitch at Conyers School, Green Lane in Yarm. The location of the playing pitch is to the east of the main school building and is surrounded by the school field to the north, east and south. Beyond the school field to the north are the residential properties of Limpton Gate that bound the site. There is a distance of approximately 60 metres between the all-weather pitch and the residential gardens of the properties to the north. To the south, beyond the school field are

five residential properties that front onto Green Lane at a distance of approximately 80 metres between the All-weather facility and the residential gardens of those properties. The site is bounded by Thirsk Road to the east and there are residential properties and a petrol filling station to the south-east at a distance of approximately 140 metres.

PROPOSAL

- 03 This application seeks planning consent to vary the Sunday hours of use of the previously approved 'Provision of all-weather illuminated pitch surrounded by 5 metre high fence', under a section 73 application (01/1496/P). The current Sunday operating hours operate from 11:00 am to 4:00 pm this application proposes to extend the current opening times by two hours by opening the facility one hour earlier and closing one hour later with Sunday opening times of 10:00 am to 5:00 pm.
- 04 The application originally also sought to vary the operating hours from a closing time of 9:00 pm to a closing time to 10:00 pm Monday to Friday, however following comments of objection from the Environmental Health Unit, this element of the proposal has been removed from the application and this application now only proposes the variation of the Sunday hours. It is also noted that the school site does not currently open on Bank Holidays and the applicant has confirmed that there is no intention to operate the all-weather facility on Bank Holidays. Consequently the use of the site on Bank Holidays does not form part of the application.

CONSULTATIONS

- 05 The following Consultees were notified and comments received are set out below:-

Highways Transport and Environment Manager - The Highways, Transport & Environment Manager has no objection to this application.

Environmental Health Unit

I have no objections regarding the extended opening hours on a Sunday. I do not feel that the same impact would be imposed upon residents by the extending the opening hours on a Sunday from the existing period of 11:00 am to 4:00 pm to the proposed hours of 10:00 am – 5:00 pm as the increased hour on a morning and increased hour on an afternoon is considered not to be significantly over and above the existing situation and the 10:00 am start and 5:00 pm finish are considered not to be sensitive hours of the day. The proposal would therefore not result in significant loss of amenity at these times.

I am therefore minded to accept the proposed hours on a Sunday,

We have no ongoing complaints of light intrusion from the site and a previous assessment concluded that the height and angle of the floodlights was suitable so as not to intrude onto neighbouring properties. As such the extended use of the lights is not anticipated to have significant impact upon local residential properties. Please note that should circumstances in the future change, the lighting can be reassessed and any necessary action taken under Statutory Nuisance legislation.

Ward Councillors were notified and no comments were received.

PUBLICITY

- 06 12 letters of objections have been received to the proposal following neighbour consultation. A list of the objectors and issues identified are set out below (in summary). The full details of the objections can be viewed online at the following web address <http://www.developmentmanagement.stockton.gov.uk/online-applications/>

List of Objectors

- 1 Mrs Susan Ellis 45 Limpton Gate
- 2 Mr Geoff Walker 47 Limpton Gate
- 3 Mr Patrick Rice 35 Limpton Gate
- 4 Mr John Meredith 29 Limpton Gate
- 5 Mr Paul Toon 27 Limpton Gate
- 6 Mr A Watson 25 Limpton Gate
- 7 Mr & Mrs G Turner 49 Limpton Gate
- 8 Mr Michael Gibb 29 The Slayde
- 9 Mr Robert Jones 51 Limpton Gate
- 10 Ms Gina Whitwell 19 Limpton Gate
- 11 Mr & Mrs Horsman 23 The Slayde
- 12 Mr Alex Conti 33 Limpton Gate

- Noise, disturbance and the use of foul language
- Loss of privacy and a loss of leisure time within residents' gardens.
- Detrimental Impact of increased use of flood lights
- The use not being suitable for the residential area, overdevelopment of the site and visual impact.
- An increase in anti-social behaviour/crime
- An increase in traffic congestion and car parking problems
- Approving the increase would set a precedent
- Devaluation of property values.

PLANNING POLICY

- 07 Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

National Planning Policy Framework

Paragraph 14: At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission

unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

Local Planning Policy

The following planning policies are considered to be relevant to the consideration of this application.

Core Strategy Policy 6 (CS6) - Community Facilities

Priority will be given to the provision of facilities that contribute towards the sustainability of communities. In particular, the needs of the growing population of Ingleby Barwick should be catered for.

Opportunities to widen the Borough's cultural, sport, recreation and leisure offer, particularly within the river corridor, at the Tees Barrage and within the Green Blue Heart, will be supported.

The quantity and quality of open space, sport and recreation facilities throughout the Borough will be protected and enhanced. Guidance on standards will be set out as part of the Open Space, Recreation and Landscaping Supplementary Planning Document.

Support will be given to the Borough's Building Schools for the Future Programme and Primary Capital Programme, and other education initiatives, the expansion of Durham University's Queen's Campus, and the provision of health services and facilities through Momentum: Pathways to Healthcare Programme.

Existing facilities will be enhanced, and multi-purpose use encouraged to provide a range of services and facilities to the community at one accessible location, through initiatives such as the Extended Schools Programme.

MATERIAL PLANNING CONSIDERATIONS

- 9 Given that this application seeks a variation to the operating hours of an established use, the main Planning considerations of this application relate to the impacts on the amenity of the neighbouring residential properties and highway safety considerations.

Amenity of Neighbouring Residential Properties

- 10 The National Planning Policy Framework, paragraph 17 seeks to protect residential amenity while Paragraph 123 states that planning decisions should avoid significant levels of noise from new developments from adversely impacts on health and quality of life.

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The application site relates to an established all-weather sports facility within the school setting that currently benefits from planning permission to operate opening hours from 09:00 am to 9:00 pm Monday to Friday, 10:00 am to 5:00 pm Saturday and 11:00 am to 4:00 pm on Sundays. The all-weather pitch is surrounded by the playing field to the north, east and south. Beyond the school site residential properties bound the site to the north and a small number of dwellings bound the site to the south and to the south-east. The nearest residential gardens to the all-weather pitch are the properties to the north of Limpton Gate and are at a distance of approximately 60 metres from the facility. The properties to the south that front onto Green Lane are at a distance of approximately 80 metres and the properties to the south-east are at a distance of approximately 140 metres.

- 12 It is noted that of the objections received, some objections related to the initial Monday to Friday variation of hours, some made specific reference to the Sunday variation and some objections covered both elements of the initial proposal.
- 13 Objections related to the increased noise and disturbance, the use of foul language and a loss of privacy within the neighbouring residential gardens as a result of increased hours of use.
- 14 The Council's Environmental Health Unit have been consulted and have no objections to the proposed extension of Sunday hours and consider that the noise generated from participants using the facility for the additional two hours would not result in a significant change beyond the existing situation. Furthermore the 10:00 am opening time and the 5:00 pm closing time are considered not to be significantly sensitive periods of time in terms of loss of amenity for the enjoyment of the neighbouring properties.
- 15 Whilst it is acknowledged that the noise associated with the all-weather facility may result in the use of foul language by participants, this can be an unfortunate consequence of sporting activity and it is not something that can be controlled through the planning application and is a matter for the operator of the facility to manage.
- 16 Objections also related to an unacceptable increase in the level of light intrusion from the additional use of floodlighting as a result of the increase in the hours of use. The extension of the Sunday hours would result in an extended period of flood lighting during the winter months and would most likely be used between the periods of 3:30 pm -5:00 pm. Environmental Health consider the proposed increase in floodlighting on a Sunday would not lead to an unacceptable level of light intrusion onto the neighbouring residential properties and have made reference to a previous assessment of the floodlight impact at the site carried out in December 2004. The light assessment concluded that the floodlighting did not result in a significant undue impact onto the neighbouring properties. Furthermore Environmental Health have detailed that should there be any change in circumstances in relation to the impact of floodlighting, the issue can be reassessed under separate Statutory Nuisance legislation and any necessary action could be taken should it be required to safeguard the residential amenity of the neighbouring properties.
- 17 Concerns have been raised from a number of local residents with regard to potential anti-social behaviour generated by the increase in hours of use. Section 17 of the Crime and Disorder Act 1998 places a duty on the authority to consider the crime and disorder implications of the proposal. There is no evidence to link such issues to the proposed use and any potential problems arising from this behaviour can be dealt with by other methods such as the police service or community enforcement section and would not be a reason to warrant refusal of the application for the extended opening hours.
- 18 Objections have been received relating to the suitability of the use in proximity to the residential area, overdevelopment of the site, the proposal setting a precedent and the visual impact. As the all-weather facility is a lawful existing facility and use, these aspects cannot be revisited as part of this planning application but underlines the perception of nearby residents that they consider the activities of a school playing field and an all-weather pitch should be passive and limited. While the concerns are noted this ignores the purpose and importance of such facilities as well as contributing to the health and well-being of the community.

Highway Related Matters

- 19 Although an objection has been received relating to Highway Safety, car parking and drop off and pick up periods, the Highways Transport and Environment Manager has considered the application and raises no highway objections to the proposal.

Residual Matters

- 20 The planning condition relating to the hours of use of the all-weather playing facility of the original planning approval was also included within the associated section 106 agreement. This variation of hour's application supersedes the condition contained on both the planning decision notice and the section 106 agreement. As a consequence of this variation application, conditions 2 and 3 are recommended to be imposed within this decision from the section 106 agreement to ensure that the facility is suitably managed.
- 21 An objection was also received relating to the devaluation of property value; however this is not a material planning consideration and is not considered as part of the planning application.

CONCLUSION

- 22 Having regard to the existing use of the all-weather facility and the limited increase of the hours of use, subject to the imposition of the recommended planning conditions it is considered that this would not result in a significant adverse impact on the amenity of existing and future occupiers of the surrounding neighbouring properties in terms of noise disturbance, loss of privacy and light intrusion considerations. The proposal is therefore considered to satisfy the provisions of the National Planning Policy Framework and the relevant Development Plan policy identified above and the development plan as a whole. It is therefore recommended that the application be approved with conditions for the reasons specified above.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Kieran Campbell Telephone No 01642 528551**

WARD AND WARD COUNCILLORS

Ward Yarm

Ward Councillor(s) Councillor Ben Houchen

Ward Councillor(s) Councillor Elsi Hampton

Ward Councillor(s) Councillor Julia Whitehill

IMPLICATIONS

Financial Implications:
As Report

Environmental Implications:
As Report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

The Town and Country Planning Act 1990.

National Planning Policy Framework

Stockton on Tees Local Plan Adopted Version June 1997

Core Strategy Development Plan Document March 2010

Supplementary Planning Document 3: Parking Provision for New Developments (2011)