

Application Number

P/2018/0996

Site AddressCombe Pafford School
Steps Lane
Torquay
TQ2 8NL**Case Officer**

Ben Gilpin

Ward

Watcombe

Executive Summary/Key Outcomes

This planning application seeks permission for the formation of a synthetic sports pitch with associated fencing within the curtilage of Combe Pafford School. The pitch would be 58m by 38.75m (2015 square metres). No external lighting is proposed. The proposal is considered acceptable, having regard to the Torbay Local Plan, and all other material considerations.

Recommendation

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding matters to be delegated to the Assistant Director for Planning and Transport.

For the avoidance of doubt, as Sport England are objecting to the proposal, it will be necessary for the Local Planning Authority to consult the Secretary of State prior to issuing a decision (referral to the Secretary of State for option of Call In).

Reason for Referral to Development Management Committee

The site is in the ownership of the Local Authority.

Statutory Determination Period

28.11.2018

Site Details

The site comprises an area of grassland, used as a sports pitch, within the curtilage of Combe Pafford School, and located between the school buildings and Moor Lane. The site is visible from public vantage points, as well as residential properties to the east (on Steps Lane).

The site has no statutory designation constraints.

Detailed Proposals

This planning application seeks planning permission for the formation of a synthetic sports pitch with associated fencing. The pitch would be 58m by 38.75m in area (2015 square metres). The pitch would be enclosed by a 3 metre high fence. No external lighting is proposed.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

Summary of Consultation Responses

Sport England:

Objection – repeatedly maintained (there is a deficiency in the provision of playing fields in the area of the local authority) **

Sport England state that:

“The proposal for a synthetic turf pitch with no lights and not suitable for affiliated community football has limited potential to meet E5 [Sport England Policy]. A new AGP [artificial grass pitch] would need to be ‘fit for purpose’ and meet the requirements for football match play, generate an income for operation including ‘sinking fund’ and be open to community use to meet the identified strategic need.

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields

Policy or with Paragraph 97 of the NPPF.”

** As Sport England have maintained their objection to the planning application, if members of the Planning Committee are minded to support the scheme and Officer recommendation, under Article 10 of the Town and Country Planning (Consultation) (England) Direction 2009 (on receipt by the Secretary of State (as per that prescribed by Article 10 of the aforementioned Order), the timeline detailed in Articles 11 and 12 shall then apply (Article 11 and Article 12 are detailed below for ease of reference):

11. Subject to paragraph 12 below, where, by virtue of paragraph 9, a local planning authority is required to consult the Secretary of State, they shall not grant planning permission on the application until the expiry of a period of 21 days beginning with the date which the Secretary of State tells the authority in writing is the date she received the material specified in paragraph 10 above.

12. If, before the expiry of the 21 day period referred to in paragraph 11, the Secretary of State has notified the authority that she does not intend to issue a direction under section 77 of the Town and Country Planning Act 1990 in respect of that application, the authority may proceed to determine the application.

TBC Drainage:

“Further to your letter dated 4th October 2018 regarding the above planning application I would like to make the following comments:

1. Within the flood risk assessment submitted with this application the developer has identified that surface water drainage from the development will discharge to the existing sewer system.
2. In accordance with the NPPF a sustainable drainage option must be investigated before a decision is made to connect to the sewer system.
3. The developer should investigate the possibility of discharging surface water from this development via soakaways. In order to confirm whether or not the ground is suitable for soakaways the developer should carry out trial holes and infiltration tests in accordance with BRE 365. If the ground is found to be suitable these infiltration tests will be used to design the required soakaway.
4. The design for these soakaways should be submitted showing that the proposed soakaway has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
5. Where the developer is proposing to use permeable paving, trial holes and infiltration tests in accordance with BRE 365 are required at the formation level of the permeable paving. The infiltration rate must be used in the design of the permeable paving which must be submitted showing that it has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.

6. Only if the ground conditions are unsuitable for a sustainable drainage system should the surface water be drained to the sewer system.
7. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 40% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec.
8. The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above comments, before this planning permission can be granted the applicant must supply details to address all the points identified above**.”

** - NOTE – clarity on status was sought from TBC Drainage re: position of comments (following mid deliberation hand over between Case Officers). The response, as received on 26.03.2019, is as follows:

No objections subject to the use of a planning condition to secure final surface water drainage details.

TBC Highways:

No comments received

TBC EHO:

“I do not wish to object to the proposed development, but note that the proposed Artificial Grass Pitch (AGP) is very close to existing residential properties at Steps Lane.

The proposed application, on the face of it, could represent a significant extension of activity on the site. Were the site to be used to its fullest extent, residents would not get sufficient peace to enjoy their outdoor amenity space. Given the proximity of the AGP to the houses it is doubtful residents would be able to open windows to the rear of their properties without having their peace disrupted. It would therefore be appropriate for restrictions to be put in place to balance the residential amenity with the use of the AGP.

To that end, I would recommend that a restriction be placed on the use of the AGP and associated play area limiting its use to between the hours of 09.00 to 18.00 Monday to Friday and 09.00 to 13.00 on Saturdays with no use on Bank Holidays.”

Devon & Cornwall Constabulary:

No objection.

“Thank you for the opportunity to comment on the above. From a designing out crime and disorder perspective I would like to advise that the police have no concerns with regard to the proposal and support the proposed 3m high galvanised mesh steel fencing in creating a safe and secure enclosure for the required use.”

Summary Of Representations

1 x letter of objection received, citing:

- Amenity (Noise / Light)
- Visual Impact (from fence)
- Highways

Relevant Planning History

The site has no directly applicable planning history.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of Development

The proposal is for planning permission for the formation of synthetic sports pitch with associated fencing within the curtilage of a school.

There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual Impact

Paragraph 17 of the National Planning Policy Framework (NPPF) states that one of the core land-use planning principles that should underpin decision making is to secure high quality design. In addition, paragraph 64 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

The objection received has stated the installation of the 3 metre high fencing would be incongruous and to the detriment of the character of the area.

In this instance, with the fencing proposed being set away from the highway, the local authority could erect a fence to a height of 3 metres in this location, as such works are permitted by Class A, Part 12, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (such fencing conditioned to a height of 4 metres).

In any case, it is considered that the development would not result in unacceptable harm to the character or visual amenities of the locality, given the siting, scale, and design of the proposed fencing and pitch.

The proposal is considered to be in accordance with Policy DE1 of the Local Plan, and the guidance contained in the NPPF.

3. Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

An objection to the scheme has been raised stating that the scheme, without flood lights, would not serve the wider community, and as such the scheme should have floodlights, and if it did have floodlights then these would be to the detriment of amenity.

In this instance the application does not propose the installation of flood lights.

The Sport England objection relates to the loss of a grass pitch (they can object whether the site is in public or private ownership), and its replacement with astro-turf, and the consideration of their objection is detailed below.

In terms of amenity, with school use proposed, on a pitch without flood lights, the impact on local and neighbouring amenity would be limited. The noise levels likely to be generated would be comparable to the levels that might already be experienced through the school's current use of the existing sports pitch. Following the comments from the Council's Environmental Health Officer, a condition can be imposed to further reduce the proposal's impact by restricting the hours of use.

Subject to the use of the aforementioned condition; given the proposal's siting, scale, and design; and considering the existing situation at the site, it is considered that the proposal would not result in unacceptable harm to local or neighbouring amenity. As such, the proposal is in accordance with Policy DE3 of the Local Plan.

4. Flood Risk and Drainage

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

It is noted that TBC Drainage have requested further information prior to the scheme being determined. The site is in Flood Zone 1 but is also identified as being in the Torbay Critical Drainage Area (CDA).

It is advised within the submitted FRA that the surface water from the current pitch collects in the existing drainage system that serves the tarmacadam tennis courts.

It is accepted that a request from the Drainage Consultee requested further information prior to determination (this having been confirmed in a response received on 21.03.2019). However, it is not considered unreasonable to secure this information, and establish the acceptability of a drainage system, by way of a Prior to Commencement planning condition.

This would afford the applicants the comfort of knowing the scheme is acceptable in principle, but would require works in accordance with the condition to be submitted, and approved in writing, before development can commence. This ensures control is retained by the Local Authority, and protects others from implications of surface water run-off.

Subject to the inclusion of an appropriate drainage planning condition, the proposal is therefore considered to be in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

Other Considerations

Sport England Objection

Sport England have summarised in their objection that the scheme proposed would not meet with any of the Exception Tests (detailed in their 'Playing Fields Policy and Guidance' document (March 2018) nor paragraph 97 of the National Planning Policy Framework.

In this case, Exception 5 is most relevant. It reads:

"EXCEPTION 5

The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to

outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.”

At present the pitch is associated with, and ancillary to, the school.

It is noted that, historically, the pitch has been made available to external users (Watcombe Wanderers Under 10's).

The Design and Access / Planning Statement that has been submitted in support of the proposal has stated in section 2.3 that ‘The school wishes to upgrade / enhance the facility ... to allow greater use of the pitch throughout the year (due to current drainage issues on site, the field is unavailable for use for approximately 6 months during the school term [year]’.

In this instance the proposed development seeks to allow for improved surfacing to allow for continued outdoor sporting use. In this case, with outdoor sporting use of the current playing field being limited to only drier times of the year, the proposed surface will allow greater use and levels of outdoor activity for the pupils of the school, which would be to their benefit in terms of their health and well-being.

Such an evident benefit is considerable and is deemed sufficient to outweigh any perceived detriment caused by the loss of a playing field covered by grass (knowing that the same playing field is to be covered by an all-weather surface so allowing greater periods of sporting use by the pupils at the school.

Sport England have also cited paragraph 97 of the National Planning Policy Framework (NPPF), suggesting the proposed development would be contrary to the objectives contained with the paragraph. For ease, it reads:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”

In this instance two aspects need to be considered.

Firstly, does the proposed replacement actually qualify as ‘building on existing playing fields’. In this instance, the replacement of an existing surface for an alternative surface, that would maintain the area as a playing pitch, is not

considered to be a development that results in the loss of a playing field. In this regard the proposal is considered to be one that accords with paragraph 97 of the NPPF. In addition, relating to sub-section 'b', it is not considered the proposed development results in a loss of playing field.

Secondly, it is accepted the development could be used for alternative sports (but still include football, albeit not to the standards the Football Association (FA) would want). However, football could still be played on the new surface, as well as a variety of other sports. In relation to sub-section 'c', the change of surface may result in the loss of a pitch that had been used once by an under-10's football team, but the new playing surface would benefit the school and its pupils who, by virtue of their moderate learning difficulties / physical difficulties / complex needs or having Autistic Spectrum Condition (ASC), would benefit considerably from the opportunity to use a playing surface year round.

Knowing the above it is considered the benefits would be significant, and they would outweigh the loss of the current use as a grassed playing field. The site will still be used for sport and recreation after the development, and will be available for the use of the school throughout the year.

In summary it is considered the proposed development would accord with the Exceptions Tests, as well as meeting the criteria detailed in the NPPF. Planning officers consider that the benefits of the proposal would outweigh the harm caused by the loss of a grass pitch, even if this results in there being less benefit to the wider community.

Torquay Neighbourhood Plan

The Torquay Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application.

The relevant policies for this application are Policy TSL3 (Sport and Leisure – Sports Grounds and Facilities) – which seeks to ensure development does not result in the loss of existing playing fields.

This policy states the loss of any other existing playing or sports field will not be supported, unless replaced by equal or better facilities in equally or more easily accessible locations in the Neighbourhood Area. The development seeks to expand opportunities for less able members of society to enjoy and participate in sporting activities, at the same time retaining the area for recreational use, and improve its usability throughout the year. The proposal is therefore considered to

accord with the emerging Torquay Neighbourhood Plan Policies.

Local Finance Considerations

S106/CIL –

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

EIA/HRA

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Conclusions

The proposal is considered acceptable, having regard to the Development Plan and all other material considerations.

Condition(s)/Reason(s)

01. Drainage

Prior to the commencement of the development hereby permitted, a comprehensive drainage strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken in accordance with the approved the drainage strategy, which shall be implemented in full, and retained in perpetuity. The drainage scheme shall address and detail the following elements:

- The developer should investigate the possibility of discharging surface water from this development via soakaways. In order to confirm whether or not the ground is suitable for soakaways the developer should carry out trial holes and infiltration tests in accordance with BRE 365. If the ground is found to be suitable these infiltration tests will be used to design the required soakaway.
- The design for these soakaways should be submitted showing that the proposed soakaway has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
- Where the developer is proposing to use permeable paving, trial holes and infiltration tests in accordance with BRE 365 are required at the formation level of the permeable paving. The infiltration rate must be used in the design of the permeable paving which must be submitted showing that it has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
- Only if the ground conditions are unsuitable for a sustainable drainage system should the surface water be drained to the sewer system.
- As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 40% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec.
- The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 40% for climate change.

Reason: In the interests of mitigating impacts from surface water drainage and in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

02. Hours of Use

The sports pitch shall only be used for sports between the hours of 09.00 and 18.00 Mondays to Fridays; and between the hours of 09.00 and 13.00 on

Saturdays, with no sports use on Sundays, Bank or Public Holidays.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan.

03. Standard of Works

The sports surface hereby approved shall be installed in accordance with the standard identified in the Sport England 'Artificial Grass Pitch (AGP) Acoustics - Planning Implications' guidance (2015), and such works are to be fully completed before first use, and thereafter retained.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan.

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

SS3 – Presumption in Favour of Sustainable Development

ER1 – Flood Risk

ER2 – Water Management

SC2 – Sport, leisure and recreation