

# Public Document Pack



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Wednesday 22 November 2023

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Huddersfield Area)**

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 30 November 2023**.

This meeting will be webcast live and will be available to view via the Council's website.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft", on a light-colored background.

**Julie Muscroft**

**Service Director – Legal, Governance and Commissioning**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Planning Sub-Committee (Huddersfield Area) Members are:-**

### **Member**

Councillor Sheikh Ullah (Chair)  
Councillor Donna Bellamy  
Councillor Paola Antonia Davies  
Councillor James Homewood  
Councillor Jo Lawson  
Councillor Susan Lee-Richards  
Councillor Andrew Marchington  
Councillor Manisha Roma Kaushik  
Councillor Musarrat Khan  
Councillor Tony McGrath  
Councillor Bernard McGuin  
Councillor Imran Safdar  
Councillor Mohan Sokhal

When a Member of the Planning Sub-Committee (Huddersfield Area) cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provision of Council Procedure Rule 35(7).

### **Substitutes Panel**

#### **Conservative**

B Armer  
D Hall  
A Gregg  
R Smith  
J Taylor  
M Thompson

#### **Green**

K Allison  
A Cooper

#### **Labour**

B Addy  
A Anwar  
S Hall  
P Moore E Firth  
T Hawkins  
H Zaman

#### **Liberal Democrat**

J Lawson  
A Munro  
A Pinnock  
A Smith

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Sub-Committee**

To receive any apologies for absence, or details of substitutions to Sub-Committee membership.

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the Meeting of the Sub-Committee held on 19 October 2023.

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**3: Declaration of Interests and Lobbying**

5 - 6

Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disposable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

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**4: Admission of the Public**

Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

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**5: Deputations/Petitions**

The sub-Committee will receive any petitions and/or deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four

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deputations shall be heard at any one meeting.

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## **6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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## **Planning Applications**

7 - 8

The Planning Sub Committee will consider the following Planning Application.

Please note that any members of the public who wish to speak at the meeting must register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 27 November 2023.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 (Extension 74993)

## **7: Planning Application - Application No: 2023/90876**

9 - 24

Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path Colne Valley High School, Gillroyd Lane, Linthwaite, Huddersfield.

Ward affected: Colne Valley

Contact: John Holmes, Planning Services

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## **Planning Update**

An update report providing further information on matters raised after the publication of the agenda will be added to the online agenda prior to the meeting.

Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

**Thursday 19th October 2023**

Present: Councillor Sheikh Ullah (Chair)  
Councillor Beverley Addy  
Councillor Donna Bellamy  
Councillor Paola Antonia Davies  
Councillor James Homewood  
Councillor Jo Lawson  
Councillor Susan Lee-Richards  
Councillor Bernard McGuin  
Councillor Imran Safdar  
Councillor Mohan Sokhal

Apologies: Councillor Manisha Roma Kaushik  
Councillor Musarrat Khan  
Councillor Andrew Marchington  
Councillor Tony McGrath

- 1 Membership of the Sub-Committee**  
Councillor Beverley Addy attended for Councillor Manisha Kaushik.
- 2 Minutes of previous meeting**  
**Resolved –**  
That the Minutes of the meeting of the Sub-Committee held on 7 September 2023 be approved as a correct record.
- 3 Declaration of Interests and Lobbying**  
All Members declared that they had been lobbied in respect of Planning Application 2022/92799.
- 4 Admission of the Public**  
All items were considered in public session.
- 5 Deputations/Petitions**  
No deputations or petitions were received.
- 6 Public Question Time**  
No questions were asked.
- 7 Site Visit - Application No: 2023/91462**  
Site visit undertaken.

**8 Site Visit - Application No: 2023/90876**

Site visit undertaken.

**9 Site Visit - Application No: 2023/93823**

Site visit undertaken.

**10 Site Visit - Application No: 2022/92799**

Site visit undertaken.

**11 Planning Application - Application No: 2022/92799**

The Sub-Committee considered Planning Application 2022/92799 relating to the erection of extensions, conversion of existing attached barn to living accommodation and associated works at 17 Town Gate, Upperthong.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Tom Fleming (the applicant).

**Resolved -**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

1. Time limit for commencement of development.
2. Development to be completed in accordance with the approved plans and specifications.
3. Submission of a scheme of materials of construction, including hard surfaces.
4. Submission of a scheme detailing windows to be installed.
5. Provision of turning area shown on drawing no.4416-06-04a and permeable surfacing of such areas.
6. Rooflights to be 'conservation' style.
7. Window to be installed in the side gable serving bedroom 5 to be fixed shut and to be obscure glazed (minimum grade 4).

A recorded vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors Addy, Bellamy, PA Davies, Homewood, Jo Lawson, Lee-Richards, McGuin, Safdar, Sokhal and Ullah (10 votes)

Against: (no votes)

**12 Planning Application - Application No: 2023/90876**

The Sub-Committee received a report in respect of Planning Application 2023/90876 relating to the variation of Conditions 4 and 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path at Colne Valley High School, Gillroyd Lane, Linthwaite.

**Resolved –**

That consideration of the application be deferred to allow the Head of Planning and Development to consider additional new information submitted by the applicant.

## **Planning Sub-Committee (Huddersfield Area) - 19 October 2023**

A recorded vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors Addy, Bellamy, P A Davies, Homewood, Jo Lawson, Lee-Richards, McGuin, Safdar, Sokhal and Ullah (10 votes)

Against: (no votes)

### **13 Planning Application - Application No: 2022/93823**

The Sub-Committee considered Planning Application 2022/93823 relating to the variation of Conditions 2 (plans and specifications) and 5 (soft landscaping scheme) on previous permission 2016/93243 for erection of 17 dwellings at Thirstin Road, Honley (formerly Thirstin Mills).

Under the provisions of Council Procedure Rule 36(3) the Committee received a representation from Councillor Charles Greaves (Ward Councillor).

#### **Resolved –**

That consideration of the application be deferred to allow the Head of Planning and Development to, investigate the potential of the use of Brockholes Recreation Ground for the additional planting to enhance bio-diversity net gain, and to provide further information in respect of the enforcement history at the site including why action was not pursued in respect of breaches of conditions on the previous permission.

Recorded votes were taken in accordance with Council Procedure Rule 42 (5) as follows:

To approve:

For: Councillors Homewood, Safdar, Sokhal and Ullah (4 votes)

Against: Addy, Bellamy, PA Davies, Jo Lawson, Lee-Richards, McGuin (6 votes)

To defer:

For: Councillors Addy, Bellamy, PA Davies, Jo Lawson, Lee-Richards, McGuin, and Safdar (7 votes)

Against: Councillors Homewood and Ullah (2 votes)

Abstain: Councillor Sokhal

### **14 Planning Application - Application No: 2023/91462**

The Sub-Committee considered Planning Application 2023/91462 relating to the erection of a single storey side extension and enlarged porch with associated external alterations at 17 Maplin Avenue, Salendine Nook.

The Committee heard a representation on behalf of Councillors Cahal Burke and Anthony Smith (Ward Councillors).

Under the provisions of Council Procedure Rule 37, the Committee received representations from Mr Khalil and Mrs Idriss (applicants).

#### **Resolved –**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions,

## **Planning Sub-Committee (Huddersfield Area) - 19 October 2023**

including that contained within paragraph 10.41 of the report, and for the following reason:

The extension would not result in a dominant and unsympathetic addition to the dwelling that would be harmful to visual amenity and would therefore accord with Policies LP2 and LP24 of the Local Plan and the House Extensions and Alterations Supplementary Planning Document. Account was taken of the justification put forward by the applicants in respect of the design and scale of the extension.

A recorded vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors Addy, Bellamy, PA Davies, Homewood, Jo Lawson, Lee-Richards, McGuin, Safdar and Sokhal (9 votes)

Against: (0 votes)

Abstain: Councillor Ullah



## KIRKLEES COUNCIL

### DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

**Name of Councillor**

Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

**LOBBYING**

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed: .....

Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and

(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

**In respect of the consideration of all the planning applications on this Agenda the following information applies:**

## **PLANNING POLICY**

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

## **REPRESENTATIONS**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 55 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**

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## Report of the Head of Planning and Development

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Nov-2023

**Subject: Planning Application 2023/90876 Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path Colne Valley High School, Gillroyd Lane, Linthwaite, Huddersfield, HD7 5SP**

#### APPLICANT

Lee Richardson, Colne  
Valley High School

#### DATE VALID

20-Mar-2023

#### TARGET DATE

15-May-2023

#### EXTENSION EXPIRY DATE

26-Oct-2023

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Colne Valley**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE refusal of the application for the following reason:

1. The proposal, to extend the hours of use of the 3G synthetic turf pitch, would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike and use of artificial lighting at unsocial hours. This is contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 This application is brought to committee at the request of Ward Cllr Harry McCarthy, for the following reasons. Cllr McCarthy has asked that a full unredacted version of his request be included:

*'I believe that this application should be heard at committee because of my concerns surrounding its impact on community sport and the provision of sports facilities.*

*Paragraph 92 of the National Policy Planning Framework (NPPF) states that "planning policies and decisions should aim to achieve healthy, inclusive and safe places which: "enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling."*

*Paragraph 93 of the NPPF states that "To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: ... guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs."*

*Paragraph 98 states that "access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreation provision is needed, which plans should then seek to accommodate."*

*There is a clear need for the increased sports provision that this application would grant, and there would be a loss of provision if it was not granted. If this application is rejected, it will conflict with the NPPF's objectives to promote healthy and safe communities: by preventing provision of local sports facilities which enable and support healthy lifestyles, by not providing the recreational facilities our community needs, and by any by reducing access to open spaces and opportunities for sport and physical activity.*

*There is a clear need for extension of hours, as currently there is not enough capacity to support local football and sports clubs in the local area. Local football clubs have explored other provision locally, for example utilising natural grass pitches (NGPs) owned by other local schools, however this has proved to not be feasible, and by using pitches outside of the local area. Without the extension of hours, a local football club has informed us that they may have to fold a number of their teams.*

*There are significant capacity shortages across most pitch types in Kirklees, including artificial grass pitches (AGPs), and this issue will worsen over time with housing growth. This has been illustrated in Kirklees Council's Playing Pitch Strategy adopted in 2015, and in subsequent work since the previous planning decision. Paragraph 98 of the NPPF states that "planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities" and plans should seek to accommodate what provision is needed.*

*The Playing Pitch Strategy recommended that floodlit artificial grass pitches are required to address shortfalls in provision. Artificial grass pitches do not have the same capacity restraints that natural grass pitches have, and can be programmed to accommodate significant amounts of match play and training. AGPs also relieve pressure on natural grass pitches. Local Natural Grass Pitches have proved unsuitable for use by local football clubs.*

*The peak times for community use of artificial grass pitches are weekday evenings and weekends. If community groups and sports clubs are unable to use these facilities because there are planning restrictions in place during these times, there is a direct impact on community sport.*

*Sport England have illustrated in their response that curtailment of hours can impact on the sustainability of AGPs. If the school cannot use revenue from community use for routine maintenance there is doubt that the surface, which has a finite lifespan, can be replaced.*

*We would also ask that the committee/planners give consideration to the applicant's analysis of the potential hours of use against identified thresholds in guidance from Sport England that has been developed for environmental health and planning officers.'*

- 1.2 The Chair of the Sub-Committee has confirmed that the reasons for the referral to the committee by Cllr Harry McCarthy are valid having regard to the Councillor's Protocol for Planning Committees.

- 1.3 This application was reported to the Sub-Committee meeting of 19<sup>th</sup> October 2023 where Members resolved to defer consideration, following the receipt of amended/additional information at a late stage. The revised information proposes an alternative variation to the permitted hours of use. In deferring the application to assess the revisions, further consultation with the Council's Environmental Health Team has taken place as well as a further period of publicity.
- 1.4 The amended submission has seen the proposed hours further revised to request the following:
- *Mondays to Fridays:*  
*8.00am – 6.30pm during April, May, June, July, August and September and*  
*9:00am - 9:00pm during October, November, December, January, February and March*
  - *Saturdays & Sundays*
  - *09:00am 2:00pm*
- 1.5 The following report is based on the revised proposal to vary the hours of use to those set out in paragraph 1.4 above.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to part of the Colne Valley High School grounds, formerly a 'Redgra' area and which has been redeveloped with a '3g' artificial surface sports pitch. This is located to the rear of the existing Sports Centre building on this site. North-west of the application site are residential properties along Gillroyd Lane/The Rock which are separated with a landscaped strip and at a lower ground level. Open land and school grounds adjoin the remainder of the other site boundaries. The whole of the school premise is served by a controlled access from Gillroyd Lane.
- 2.2 In relation to neighbouring properties, the nearest residential properties to the west of the site are at the following distances (note: all measurements are at the rearmost point of the property and the acoustic fence of the sports pitch):
- No.191 Gillroyd Lane – 13.3m
  - No.189 Gillroyd Lane – 14.1m
  - No.187 Gillroyd Lane – 21.2m
  - No.185 Gillroyd Lane – 22m
  - No.183 Gillroyd Lane – 22.2m
- 2.3 The pitch is at an elevated position in relation to the residential properties to the west such that the first-floor windows to the rear of these properties are at the same / similar level as the pitch.



### **3.0 PROPOSAL:**

- 3.1 Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for the variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path.
- 3.2 Condition no.4 & 5 permits hours of use for the sports pitch of 8.00am – 6.30pm Monday to Saturday.
- 3.3 The reasons for the conditions are in the interest of amenities of the nearby occupiers of the residential properties on The Rock/Gillroyd Lane, west of the site, to prevent noise (through voice and ball strike) and light pollution at unsocial hours and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
- 3.4 The submitted application form set out the hours for which they wished to alter condition no.4 to permit hours of use of 09.00 – 21.00 Monday to Friday and 09:00 – 14:00 on Saturday and Sunday in any given week of the year other than on a day which falls on a bank holiday.
- 3.5 A subsequent revision has been proposed to revise these hours, to 8.00am – 18.30 on Mondays – Fridays during April, May, June, July, August and September and 9:00 - 21:00 during October, November, December, January, February and March with the hours for Saturdays & Sundays being applied for as 09:00 14:00.
- 3.6 It is worth noting that the hours of use have recently been applied to be extended to 08:00 – 21:30 on a 7 day basis (detailed in the planning history section of this report). This application is a reduction in the hours the subject of the recent refusal (2021/93796) although is still seeking to extend the hours in the evenings on 5 days a week and to include Sunday hours for the pitch.
- 3.7 The application has been submitted with accompanying details of the original application in relation to noise and lighting, as well as the following:
  - Linthwaite Football Club letter dated Monday 20th March 2023
  - Letter from occupiers of 179 Gillroyd Lane
  - Linthwaite football club statement
  - Former Cllr Warner Email dated 20th March 2023
  - Letter dated 20th March 2022 from Member of Parliament - Jason McCartney MP
  - Statement from Golcar United FC
- 3.8 In summary, the above listed documents detail that anti-social behaviour is taking place at the site, at the times for which consent is being sought to use the site. In addition, the listed documents set out that the proposal would bring beneficial impact to all ages in relation to increasing access to facilities which promote active and healthy lifestyles.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 The most relevant planning history for the site relates to the following: -

**2021/93796** – Variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path – **Refused** 21<sup>st</sup> January 2022 for the following reason:

*‘The proposal to extend the hours of use of the 3G synthetic turf pitch would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike at unsocial hours, contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.’*

4.2 A subsequent appeal to this refusal was lodged (ref: APP/Z4718/W/22/3291359) and was dismissed on 11<sup>th</sup> July 2022. This application and the appeal decision can be viewed [here: Planning application details | Kirklees Council](#)

4.3 Other relevant planning history relates to the initial grant of permission for the pitch, details as follows:

**2018/93872** – Replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path – **Approved** 11<sup>th</sup> April 2019

4.4 This application can be viewed [here: Planning application details | Kirklees Council](#)

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 Confirmation was sought with the applicant, in relation to whether extending the hours (for a trial period only) for use on Sunday mornings. Such a trial period extension of the hours would allow for noise monitoring to be undertaken for the duration of the trial period. It was subsequently confirmed that the application is to be determined on the basis of the hours as requested in the submission documents, and as subsequently amended (as set out in paragraph 1.4 of this report).

#### **6.0 PLANNING POLICY:**

6.1 The site is Green Belt on the Kirklees Local Plan.

6.2 The following allocation and policies were considered relevant to the consideration of consent:

##### *Kirklees Local Plan*

LP24 – Design

LP21 – Highway safety and access

LP47 – Healthy, active and safe lifestyles

LP48 – Community facilities and services

LP50 – sport and physical activity

LP52 – Protection and improvement of environmental quality

LP56 – facilities for outdoor sport, outdoor recreation and cemeteries

## *National Policies and Guidance*

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) at the time of determination the application was assessed against the version of the NPPF which was published 19th February 2019. The assessment of this application is against the version of the NPPF published on 5th September 2023, although it is considered that insofar as it is relevant to the consideration of this application there has not been a significant amendment to the NPPF.

The Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 8 – promoting healthy and safe communities

Chapter 12 – Achieving well-designed places

Chapter 13 –protecting Green Belt Land

Chapter 15 - Conserving and enhancing the natural environment

## *Legislation*

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.3 Insofar as they are relevant to the consideration of this application the following 'Assessment' makes reference to the applicable policy / legislation.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters / site notice / newspaper advertisement. The application has been re publicised following the initial period of publicity (due to amendment to the scheme being received) with the second round of publicity ending on 13<sup>th</sup> November 2023.

## *Letters of Objection*

7.2 One letter of objection was received following the initial publicity of the application, raising the following, summarised, concerns:

- The noise from the existing development is creates significant noise
- Unable to enjoy use of external areas due to noise
- Noise can be heard within dwellings nearby
- There has not been consultation with neighbours by the applicant

## *Letters of Support*

7.3 Two letters of support were received following the initial publicity of the application, raising the following summarised points in support of the proposal:

- Benefits of sport and physical activity can build a lifetime habit of participation Short sighted to not allow increased use which will lead to increased instances of anti-social behaviour, misuse of alcohol, criminal damage and no doubt further criminality.
- Local sports clubs need access to much needed facilities in order to help children and young people develop resilience, determination and self-belief, and instilling values and virtues such as friendship and fair play.
- It can help children and young people to connect with their peers, tackling loneliness and social isolation and building stronger communities.

7.4 Following the second period of publicity, 124 letters of support have been received, raising the following summarised points in support of the proposal:

- The proposal will benefit the character of the area.
- Provision of a place for children and young people to play sport.
- Benefit for people's health and wellbeing as a result of the proposal.
- Games cancelled for Linthwaite FC, due to poor weather impact on grass, pitches, would be less likely to occur.
- Seems a waste to have such a facility not in use.
- Benefits for young people in creating friendships and undertaking activity, which keeps them from being on the streets.
- Linthwaite FC have worked hard to promote football in the locality.
- The proposal would mean reduced travel for users of the site.
- Linthwaite FC has 143 users who would all benefit from the proposal.
- Likely to lead to physical activity undertaken by children rather than being indoors.
- Healthier population reduced burden on NHS in the long term.
- Reduced public funding / facilities which support healthy lifestyles.
- Games being cancelled leaves members of Linthwaite FC junior teams disappointed.
- Good on-site parking facilities.
- Linthwaite FC is operated by dedicated staff / volunteers.
- Being a member of a sport team has benefits to instilling a good attitude in general.
- Provides a structured environment for teenagers to socialize.
- Reduction in chance for users to be involved in anti social activities elsewhere.
- Noise of children partaking in football training is not a nuisance.
- Subscriptions being paid but games being missed, and this could be avoided.
- Litter and damage / anti-social behavior is occurring due to lack of use of the pitches.

### *Letters of Comment*

7.5 Following the second period of publicity 5 letters of comments have been received, raising the following summarised points in support of the proposal:

- Allowing extra hours will result in hundreds being able to play in a supervised space.
- Consider there to be no issue with the proposal.
- Son plays for Linthwaite and is satisfied with the club.
- Linthwaite have a growing set up / provision for girl's football teams.
- The pitch means players are less likely to be injured compared to uneven or waterlogged grass pitches.

The number of representations received is correct as of the date of this report.

### **8.0 CONSULTATION RESPONSES:**

8.1 The following consultations have been undertaken for this application with the summarised responses listed below.

KC Environmental Health – Does not support the proposed additional hours (following assessment of revised information).

Sport England – Support the proposed development.

8.2 Whilst not a statutory consultee for this type of application, as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), Sport England requested they be consulted in relation to the proposed hours and subsequently provided comments.

8.3 The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

### **9.0 MAIN ISSUES**

- Principle of development
- Amenity issues
- Review of Conditions

### **10.0 APPRAISAL**

#### *Principle of development*

10.1 This Section 73 application seeks to amend the hours of use of the development permitted by consent 2018/93872.

10.2 It is considered that the key determining issue in the consideration of this application is the impact upon residential amenity. The National Planning Policy Framework is not considered to have been amended significantly with regard to the determining issue considered applicable in this case.

10.3 The determining issue is assessed as follows: -

Amenity issues

10.4 Paragraph 185 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

*‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.*

10.5 Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

10.6 During the consideration of the original application for permission for the pitch (2018/93872) extensive negotiations took place and sought appropriate fencing, floodlighting and hours of use for the proposed enhanced pitch to alleviate any potential concerns which may arise from an intensified use of the area. The principal reason for this was on the grounds of residential amenity and to balance the amenities of nearby residents with the positive outcomes to health and wellbeing the provision of the artificial pitch would bring.

10.7 In the most recent consultation response provided by Environmental Health on the original application, dated 25<sup>th</sup> March 2019, it was set out that they had previously expressed concerns regarding the potential of noise from the use of the pitch affecting residents of nearby premises. The response goes on to detail that the applicant has now provided revised proposals to reduce the likelihood of any significant adverse noise impact by revising the hours of use and the acoustic barrier and pitch perimeter fencing arrangements. Reference is made to a letter from Mrs Dobrucki, Finance Director of the MFS Academies Trust and a document MUK1973 - Colne Valley High School, Proposed Usage propose use of the pitch from 08:00 to 18:30 Monday to Saturday with no use on Sundays.

10.8 Within the response of the Environmental Health Team for this application, they set out that within their comments under the original application concerns were raised about the effect the proposal would have on the amenity of neighbouring properties and following discussion and negotiation the hours as conditioned upon permission 2018/93872 were agreed.

10.9 The go on to state that they continue to take the stance that any extension of these hours will likely have an impact on the amenity of the neighbouring properties and therefore they do not support the variation.

- 10.10 Following the amended proposed hours of use, which revised the hours to be extended for a 6-month period of the year in terms of Mondays – Fridays and to be used on the basis of extended hours on a Saturday and Sundays year round, the Council's Environmental Health Team were re consulted.
- 10.11 Within their further consultation response they set out that it is considered an appropriate approach is not to simply offset hours of use, removing them from one day and requiring them on another as there are more sensitive times of the day and week and this is applicable throughout the year. They go on to advise it is evident in all of their previous comments, they have stated that due to the impact on the amenity of neighbouring properties through the effects of noise and artificial lighting, they have concerns and were therefore unable to support any variation and they maintain this position in the interests of protecting amenity. They further highlight in their response that this approach has been echoed by the recent appeal against the refusal of planning permission which was dismissed by the Planning Inspectorate.
- 10.12 Sport England have requested they are consulted about this proposal, whilst not a statutory consultee as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), their request was followed up with a letter to them inviting comments. They responded with a letter of support which sets out the following points:
- Since the original decision was taken the Council has undertaken further work to understand the adequacy of playing pitch provision across football, rugby (league and union) cricket and hockey in Kirklees. The picture has been consistent between the Playing Pitch Strategy undertaken in 2015 and the current iteration (which has reached final draft stage) in that there are significant capacity shortages across most pitch types in most parts of Kirklees which will worsen with planned housing growth. The PPS is a Council document and its recommendations have been agreed at Cabinet.
  - In light of the above both strategies have recommended that a significant number of floodlit artificial grass pitches are needed to help address the shortfalls. Artificial grass pitches do not have the capacity constraints that grass pitches have and can be programmed to accommodate significant amounts of match-play and training. Because AGPs relieve the pressure on natural grass pitches, the latter can be given time to rest and regenerate thus improving their capacity for use.
  - AGPs however do not fulfil their potential if their use is significantly constrained by restrictive planning conditions. Peak times for community use are weekday evenings and weekends. Curtailment of hours in these periods directly impacts on their value for community sport.
  - Curtailment of hours of use also impacts on the sustainability of the AGP. Such facilities need routine maintenance and as the surface has a finite lifespan the establishment of a sinking fund is needed to replace their carpet. If the school cannot use revenue from community use to create a sinking fund then there will be doubt as to how the surface can be replaced.

- 10.13 Links to guidance documents about life cycle costs, acoustics and lighting is provided within the consultation response. As this proposal relates to extension to the hours of use which are in place to control noise, it is considered this guidance is not of relevance in the consideration of this application.
- 10.14 With regard to the 'AGP Acoustics – Planning Implications' document referred to by Sport England, this provides general guidance and advice about sound levels and that resultant noise should not exceed 50 decibels experienced by residential properties. The guidance provides general advice in relation to proximity and provides a concluding statement that with suitable noise mitigation measures, it is considered that acceptable noise levels can be achieved for the majority of AGP sites and will operate without adversely affecting neighbouring residential properties.
- 10.15 With regard to the life cycle costs document submitted, this is a general guidance document which provides estimated percentage amounts which would need to be allocated from the Sinking Fund to anticipated costs as a result from use for Football, Hockey, Rugby League & Rugby Union.
- 10.16 The response of Sport England provides the following concluding statement:
- 'Noise and light pollution are common issues that need consideration in the development and on-going use of floodlit AGPs. Sport England has developed guidance for Planning and Environmental Health professionals on assessing the noise and light associated with AGPs using established thresholds and identifying potential mitigation measures. The application includes detailed analysis of the potential additional hours of use against identified thresholds from both guidance documents. It is therefore both perplexing and disappointing that the Council's Environmental Health Officer has not given similar regard to such pertinent guidance in their application response.'*
- 10.17 In respect to maintenance costs provided by the sinking fund it stands to reason that whilst increased use would increase funds collected, and therefore increase the size of the sinking fund, the increased use would increase the maintenance burden too. The document submitted refers to percentage amounts to be allocated from the sinking fund to anticipated maintenance costs rather than a figure or amount which needs to be reached to ensure the maintenance of the development can be undertaken. As such it is considered that limited weight can be afforded this matter.
- 10.18 It is clear in this case there are competing pressures surrounding the use of the land, it is unfortunate the AGP is sited on this part of the school site, immediately adjacent to residential properties whereby the uses are not wholly compatible with one another.
- 10.19 A balance has been struck already by the granting of planning permission in 2019 (ref: 2018/93872) which allowed for the construction of the pitch subject to conditions which restrict the hours of use. The 2019 consent was granted on the basis of extensive negotiations with the Environmental Health Team, the applicants and LPA, there was submission of a number of documents and details including acoustic fencing detail and noise assessments (which has been submitted again as part of this S73 application).



10.20 The 2021 application to extend the hours of use and subsequent appeal is a material consideration which weighs against the granting of permission in this case given the findings of the Inspector in that case whereby they set out the following:

*'The original application was supported by a Noise Impact Assessment<sup>1</sup> (the 'NIA') which indicated that the original proposal would ensure appropriate noise levels for nearby gardens and habitable rooms. The NIA does however acknowledge that noise levels may exceed the stipulated criteria at times and moreover, it did not consider the use of the pitch during the hours now sought. The NIA also did not take into account the current conditions of the appeal site, namely any specific effects of the acoustic boundary. As such, there is no conclusive evidence before me to indicate that the noise levels which could be generated by the use of the pitch during the extended hours would be compatible with existing noise levels in the evenings and weekends, when background noise levels are likely to be lower'*

10.21 As previously stated there has not been the submission of further noise assessment, the conclusions of the Inspectorate that noise levels generated by the use would be incompatible with evenings and weekends given background noise levels would likely be lower is considered to be a logical conclusion to be drawn. Whilst the hours the subject of the 2021 application were longer than those being applied for now, the conclusion of the Inspectorate (in relation to noise) in their consideration of the appeal to the refusal of that application is still considered of relevance.

10.22 In this case there is support expressed by the applicant from local ward members and also from Sport England as well as other members of the public.

10.23 There is a clear benefit in the extended use of the pitch insofar as it can promote active and healthy lifestyles and increased access to such facilities is considered to be beneficial to the wider community. However, this has to be balanced against the residential amenity of neighbouring occupiers. It is noted residents have objected to both applications to extend the hours, and stated in those objections that noise from the use of the pitch is noticeable to them.

10.24 There has been extensive investigation and discussion undertaken in relation to noise impact, during the processing and subsequent determination of the 2019 consent, for which this application seeks to vary condition 4 (hours of use). This is confirmed in the response of the Environmental Health Team provided for this application.

10.25 It is considered that the maximum the use can be considered to be acceptable has been granted permission by the 2019 consent. The current balance of the impact as a result of noise and benefits to allow opportunities and promote healthy and active lifestyles is considered to be acceptable only on the basis of restrictive condition no.4 which is in place on the 2019 permission. Whilst the clear benefit of permitting additional use is noted, including the impact it would have for a local grass roots football team, it is considered that this has to be weighed against the impact this would have upon residential amenity as a result of noise and artificial lighting. The comments and points raised in support of the amended proposal have been carefully considered and afforded considerable weight. The positive impact of additional use of the site in relation to health and well-being is clearly understood. However, it is considered that the amended

hours suggested initially within applicants email of 18<sup>th</sup> October 2023, does not outweigh the material harm to the amenities of nearby residents that would arise from the use of the pitch during amended / extended hours. The concerns raised and the recommendation as initially put forward thus remains unchanged.

- 10.26 It is considered that to allow extended hours of the use permitted by the 2019 permission would tip this balance disproportionately against the residential amenity of neighbouring occupiers for which there are not considered to be any material considerations which indicate a different approach should be undertaken in this case by the LPA. This also takes into account the balance referred to in the Inspectors' decision letter pursuant to the 2021 application:

*"I acknowledge that the increased hours of use proposed may benefit sports groups in the local community by providing more hours/days to use the pitch. I afford this matter moderate weight, given the importance the Framework places on achieving healthy communities by enabling and supporting healthy lifestyles through the provision of sports facilities.*

*However, I have found that the proposal would be likely to harm the living conditions of nearby occupiers, resulting in conflict with the development plan as a whole, to which I afford substantial weight. Therefore, material considerations do not indicate that a decision should be made other than in accordance with the development plan"*

- 10.27 Weighing up the planning history of this site, including the Inspectorate's decision upon the 2021 application, the content of third-party representations and consultee responses, and the revised hours initially set out in the agent's email dated 18<sup>th</sup> October 2023 it is concluded that in this case the proposed additional hours of use would have an unacceptably adverse and harmful impact upon the residential amenity of neighbouring occupiers as a result of additional noise, contrary to policies LP24 (b) and LP52 of the KLP as well as chapter 15 of the NPPF.

#### Review of conditions

- 10.28 In the instance of any grant of approval of a S73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended.
- 10.29 Whilst the recommendation is for refusal, it is considered that for completeness a summary of the conditions in the event of an approval, and their re-wording or inclusion upon any grant of permission (as necessary), be included here:

#### *Condition no.1 (Time limit)*

- 10.30 As this condition relates to the timeframe to commence the development inclusion of this condition would not be necessary.

*Condition no.2 (plans list)*

- 10.31 It is considered the plans list table referred to within this condition would need to be re worded to make reference to the original consent (ref: 2018/93872) as well as worded to make reference to the details submitted as part of this application.

*Condition no.3 (Community use agreement)*

- 10.32 This condition has not been discharged, therefore this condition would be recommended to be re worded to require a scheme to be submitted and approved in writing by the LPA within a 3 month period of the date of determination. The submitted scheme would need to provide detail of pricing policy, hours of use, access by non-school users, management responsibilities and a mechanism for review.

*Condition nos.4 & 5 (Hours of use including hours the lighting can be on)*

- 10.33 The impact of amending these conditions is discussed at paragraphs 10.4 – 10.25.

*Condition no.6*

- 10.34 This condition would be re worded to make reference to the submitted detail and its continued retention.

*Review of representations received*

- 10.35 Insofar as they have not been addressed elsewhere in this report, the representations received from third parties are addressed as follows:

- There has not been consultation with neighbours by the applicant

Response: There is no statutory requirement for such consultation to be undertaken, the proposal has been publicised in accordance with the requirements of planning law.

- Games cancelled for Linthwaite FC, due to poor weather impact on grass pitches, would be less likely to occur
- Seems a waste to have such a facility not in use
- Linthwaite FC have worked hard to promote football in the locality
- The proposal would mean reduced travel for users of the site
- Linthwaite FC has 143 users who would all benefit from the proposal
- Likely to lead to physical activity undertaken by children rather than being indoors
- Reduced public funding / facilities which support healthy lifestyles
- Games being cancelled leaves members of Linthwaite FC junior teams disappointed
- Good on site parking facilities
- Linthwaite FC is operated by dedicated staff / volunteers
- Subscriptions being paid but games being missed, and this could be avoided

- Litter and damage / anti social behaviour is occurring due to lack of use of the pitches
- Allowing extra hours will result in hundreds being able to play in a supervised space.
- Consider there to be no issue with the proposal.
- Son plays for Linthwaite and is satisfied with the club.
- Linthwaite have a growing set up / provision for girls football teams
- The pitch means players are less likely to be injured compared to uneven or waterlogged grass pitches

Response: These points raised in support of the proposal are taken into account within the consideration of this application and the overall recommendation put forward. Whilst these points raised are afforded considerable weight in the balance between the benefits of the proposal against the harm to the residential amenity of neighbouring occupiers, it is considered they cannot be afforded such weight as to outweigh the identified harm in this case.

10.36 It should be noted that the operation of the site could not be restricted to certain users and whilst it is clear a local football club would likely seek to use the facility, this could cease and its more general use take place.

## **11.0 CONCLUSION & RECOMMENDATION**

11.1 There has been no significant change to the site allocation or national/local planning policy and guidance since the 2019 consent. Having regard to the detail submitted, subsequent discussions with the applicant and the Environmental Health Team as well as third party representation received, it is recommended that the application be refused on the basis it would lead to a detrimental impact to neighbouring occupiers from resultant noise and disturbance. Refusal for the reason set out at the beginning of this report is therefore recommended.

### **Background Papers:**

Application and history files.

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023/90876>