
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2020/93471 Discharge condition 40 on previous permission 2015/90201 for variation condition 3 (plans) on previous permission 2014/90780 for erection of 206 dwellings, formation of community and sports facilities comprising floodlit practice rugby pitch, 2 floodlit multi use games areas, public open space, footways/cycleways, car parking and associated landscaping for phase 1 of the development (64 dwellings) Dewsbury RLFC Ltd, The Tetley Stadium, Owl Lane, Shaw Cross, Dewsbury, WF12 7RH

APPLICANT

Tony Scargill, Dewsbury
Rams RLFC

DATE VALID

13-Oct-2020

TARGET DATE

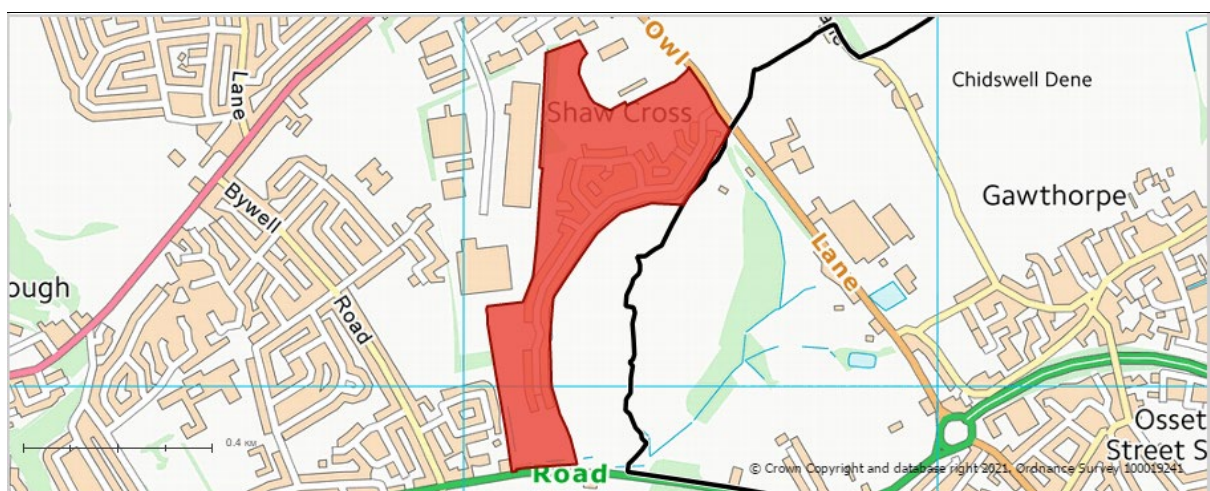
08-Dec-2020

EXTENSION EXPIRY DATE

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<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected:	Dewsbury East
Ward Councillors consulted:	Cllrs Scott, Firth and Lukic
Public or private:	Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development.

1.0 INTRODUCTION:

1.1 This application is brought to Heavy Woollen Planning Sub-committee for determination upon the request of Cllr Cathy Scott.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is located off Owl Lane, Dewsbury which has, over the previous 5 years, been subject to a residential development of 206 residential properties now known as Amberwood Chase. More specifically the site relates to the practice/training pitch which was installed within the grounds of Dewsbury Rams stadium as part of the development of the new dwellinghouses. The pitch is located south of the existing stadium with car parking to the east and west and a number of residential properties on the Amberwood Chase development located directly adjacent to the south of the pitch.

2.2 The re-development to the pitch also included the installation of two Multi Games Areas directly west of the main playing pitch which is surrounded by commercial and industrial uses.

3.0 PROPOSAL:

3.1 The application has been submitted to re-discharge the requirements of condition 40 imposed on the planning permission to develop the residential site. Condition 40 states:-

40. Prior to the loss of the existing playing pitch, the following documents shall be submitted to and approved in writing by the Local Planning Authority:

i) A Sports Development Plan (that includes consultation with relevant sports groups and organisations usage, matrix and costs);

ii) A pitch feasibility study containing an assessment of ground conditions (including drainage and topography) of land proposed for the replacement pitch which identifies constraints that which could affect the quality of the replacement pitch; and

iii) Based on the results of the Sports Development Plan assessment to be carried out pursuant to i) and ii) above a detailed pitch specification which ensures that the replacement pitch will be provided of an acceptable quality in accordance with the Rugby League standards, including a written specification and technical drawings of materials, drainage and a maintenance schedule to comply with the RFL stadium standard for artificial grass pitches.

The approved scheme shall be carried out in full accordance with a timeframe agreed with the Local Planning Authority. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: *To accord with the guidance contained in part 8 of the National Planning Policy Framework “Promoting Healthy Communities”.*

- 3.2 The requirements to provide details pursuant to condition 40 was initially discharged via application and as such details over the usage of the pitch were initially agreed. This application seeks to vary the terms of usage for the pitch and full details on the current proposal will be set out in the assessment below.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The salient planning history includes the following applications:-

Planning Applications

2014/90780 - Erection of 206 dwellings, formation of community and sports facilities comprising floodlit practice rugby pitch, 2 floodlit multi use games areas, public open space, footways/cycleways, car parking and associated landscaping (Relocation of MUGA's) – *Granted* - 27/11/2014

2014/93527 - Discharge conditions 1- 40 – *Split Decision* - 02/12/2016

2015/90201 - Variation of condition 3 (Plans) – *Granted* – 16/11/2015

2015/92153 - Discharge of condition 28 (Off Site Signal Works) – *Granted* - 25/09/2015

2016/93929 - Discharge of condition 30 (Travel Plan) – *Granted* – 08/12/2016

Enforcement History

COMP/15/0013 – Major Site Monitoring - ongoing

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant initially proposed the pitch activities to be carry on until 9:30pm which was considered excessive. Negotiations took place to agree a reduction in finishing time of activities. The proposed finishing time is now proposed to be 8:30pm.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determined to be made under the planning Acts, the determination must be made 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) and National Planning Policy Framework.

Kirklees Local Plan (2019) [KLP]:

LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP50 – Sport and physical activity
LP52 – Protection of improvement of environmental quality

National Planning Policy Framework [NPPF]

Chapter 8 – Promoting healthy and safe communities
Chapter 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance / Documents:

- 6.2 None applicable.

National Planning Policy Guidance [NPPG]:

- 6.3 NPPG section “Open Space, sports and recreation facilities, public rights of way and local green space” provides relevant guidance

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 There has been 12 representations to the initial proposal. Below is a summary of the comments made:-

- An increase in the use of the pitch will lead to further noise disturbances.
- The use of the pitch was for rugby training and community purposes only.
- Anti-social behaviour, foul language, whistles, ball strikes and shouting create noise.
- There are already sufficient 3G pitches in the area.
- Balls kicked into gardens.
- Car horns used when players leave the site.
- Floodlights create light disturbance
- Pitch erected closer to residential properties than approved.

- 7.2 The amended proposal was re-advertised with letters sent to residential properties adjacent to the pitch. One representation has been made to the amended proposal raising the following concerns:-

- Noise and light disturbance.
- Potential damage to existing properties.
- Pitch erected closer to residential properties than approved.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory: -

Environmental Health – Noise and Pollution – Objected to the initial submission by reason of late finishing times. Supportive of re-negotiated times of usage.

9.0 MAIN ISSUES

- 9.1 The installation of the pitch and its usage for training, community and public use are not issues of debate. The pitch has planning permission by virtue of the permission for the residential development and the types of uses have previously been agreed by virtue of the previous discharge of condition 40. The pitch, while marginally closer to the boundary by approximately 2 metres than shown on the approved plans, is considered to have been installed within acceptable tolerances and pursuant to the planning permission.
- 9.2 Secondly, the types of use are not under scrutiny in so far as the discharge of condition allowed a range of uses on the pitch at given times during the day including evening hours.
- 9.3 The key issue to be considered upon this application is whether the change in operating times is acceptable and consistent with the reasons for why the condition was imposed. This is appraised below.

10.0 APPRAISAL

Reasons for imposing the condition

- 10.1 By way of background knowledge it is important to understand the reasons why the condition was considered necessary and for what purposes the required information sought to achieve. This is important to the determination of whether or not the details submitted on this application are acceptable as they should equally go towards achieving the purposes for imposing the condition.
- 10.2 In this instance the residential development was carried out on land designated as green belt and under NPPF policy planning permission could only have been granted where very special circumstances existed. It can be seen from the report before Heavy Woollen Planning Sub-committee that Members were asked to give substantial weight to the enhanced sporting facilities and were told:-

The Proposed Development seeks to achieve two objectives. The first is to secure the long term future of Dewsbury Rams RLFC. The club is an integral part of the local community and as such it is imperative investment is made in its facilities and community programme to ensure its survival.

The Council have acknowledged the importance of the club and its role within the community and have approved a development agreement which will manage future community programmes and outreach reach work and new community facilities that will benefit the club in their development and the wider community. This is particularly important with proposed changes to the super league structure whereby existing clubs will have an opportunity for promotion to the Super League. In order to ensure the Dewsbury Rams are eligible for the proposed new format, investment needs to be made in sporting and community facilities. To that end the proposed practice pitch, MUGAs and car park revisions together with funding for maintenance and enhancement of community programme is essential.

10.3 The committee report went on to state:-

Through the provision of community facilities (practice pitch, MUGA's, linear park, footpaths and cycleway), the delivery of the Clubs Community Development Plan and establishing the Community Trust Fund, the development proposed provides a wide package of measures to help tackle these types of issues and would be of considerable benefit to the community.

As such this is considered to be an important factor that should be given considerable weight particularly as it accords with the overall vision and strategic aims of the development plan.

10.4 In resolving to approve the planning application, Members of the committee placed considerable weight on the importance of Dewsbury Rams and the benefits of the pitch not only to the community for their usage but also to the sustainability of the rugby club as an community asset. The community benefit derived from the use of the pitch is therefore of considerable community benefit and sufficient to constitute very special circumstances to the degree it overcame the harm to the green belt. Condition 40 was therefore considered necessary to secure the details of the community use and how the pitch was proposed to be used. This is reflected in the stated reason for the condition.

Initial discharge of condition 40

10.5 The subsequent details submitted to discharge condition 40 included a supporting statement. The statement set out the potential scope of groups, schools, sports clubs, organisations, teams who would likely benefit from the use of the pitch. The statement included a matrix of usage over a typical month and allocated time slots for specified users upon each day of the week. Over a typical week the hours of use for each day were as follows:-

- Monday - 9am to 9pm
- Tuesday - 10am to 10pm
- Wednesday - 10am to 9pm
- Thursday - 10am to 10pm
- Friday - 10am to 3pm and 6pm to 10pm
- Saturday - 10am to 5pm
- Sunday - Car boot sale and match day
- No restriction on the Multi Games Areas

- 10.6 The application to discharge condition 40 also included details of specifications and feasibility of the pitch, all sufficient to discharge the condition.

Proposed re-discharge of condition 40

- 10.7 Dewsbury Rams now seek to vary the terms of the previously agreed hours of use and state that the previous usage information was based on the planned use at the time of the application 2014. They go on to state that *“through time it has been impossible to sustain the usage planned and hours of operations have been reduced.”* The statement also states that the previously agreed plan did not give the flexibility needed to accommodate all sports at the times they need the training facility and that operationally they *“require the usage plan to be replaced by an open plan while ever the facilities are open and the option to have different sports on the same evening even on consecutive bookings.”*
- 10.8 Essentially they submit that the agreed plan is too rigid and that an option to operate with a more flexible open arrangement to allow any sports to be played on the pitch during fixed times would allow the pitch to be used in a more efficient and viable manner. The fixed hours for pitch usage and Multi Games Area are proposed to be:-

Pitch Usage

- Monday – Friday - 9am to 8:30pm
- Saturday – Sunday - 9am to 1pm

- The pitch is proposed to be closed for 1 hour between either 12pm and 1pm or 1pm and 2pm Mondays to Fridays.

- The pitch may be in use all day on three occasions in a calendar year with agreement from the Council.

Multi Use Games Areas

- Monday – Sunday - 9am to 10pm

- 10.9 The proposed Management Plan also includes details how the pitch and Multi Games Area will be maintained, managed, marketed including booking procedures and code of conduct for users to adhere to.
- 10.11 The applicant submits that any further reduction in the proposed hours would be financially unviable and would severely put the community facilities at risk thus eroding the reasons for approving the residential development in the green belt. However it is of note the applicant do not provide empirical evidence to support this claim although it is not disputed that the longer the community facilities are available adds more weight to the reasons for imposing the condition.

Reasons for Imposing the Condition

- 10.12 With regard to the purposes of the condition as set out in paragraphs 10.1 – 10.4 above, the proposed use of the pitch differs little from the previously approved matrix other than it does not contain specified time slots for individual sports and other community uses. The proposed details do state, however, that the pitch will be “*available to Dewsbury Rams for club activities such as training, sports camps etc and also to the wider community for training nights, holiday camps etc.*”.
- 10.13 With regard to current policy, KLP LP47 seeks to facilitate access to accessible open spaces and play, sports, leisure and cultural facilities. KLP LP48 aims to retain existing community, education, leisure and cultural facilities that meet the needs of all members of the community. KLP LP50 also seeks to protect outdoor and indoor sport and leisure facilities. Overarching KLP policies is chapter 8 of NPPF which aims to enable and support healthy lifestyles through the provision of sports facilities.
- 10.14 On this basis it is considered the proposed usage of the pitch as a community facility remains consistent with the purposes for imposing the condition, current planning policy and does not erode the very special circumstances that Members of Planning Sub-committee accepted in 2014. However, Members will need to be satisfied that any additional impact resulting from the inherent flexibility of an open use for any sports at anytime within the proposed hours is acceptable. Principally this additional impact is likely to come from the use of the pitch closest to the residential properties.

Environmental Impact

- 10.15 KLP policy LP52 and chapter 15 of NPPF both aim to protect existing developments from unacceptable levels of noise pollution and are relevant in this case in so far as any change in the operations of the community facilities could be jeopardised if those changes lead to unacceptable levels of noise. This may result in pressure to reduce the use of the community facility if noise nuisance exists thus impacting upon the availability of the community asset and reasons for imposing the condition.
- 10.16 There is no doubt the use of the pitch closest to the residential properties has the potential for creating noise and in this case the Council has received complaints from residents occupying properties on the adjacent residential development. In terms of noise, complaints principally include concern over users of the pitch shouting and using foul language, referee whistles, noise from spectators, ball strikes on perimeter fencing and car horns all during evening hours. Residents inform the Council that this noise is most disturbing during 5-a-side football use by reason to the more intensive use of the pitch and the orientation of the goals towards the residential properties.

Planning Balance

- 10.17 Determination will turn on a balance to be struck between enhancing and promoting the community facility / healthy life styles in accordance with KLP policies LP47, 48 and 50 and chapter 8 of the NPPF and noise protection in accordance with KLP policy LP52 and chapter 15 of the NPPF. On one hand

the retention and optimal use / viability of the community facility is important to justify the very special circumstance why which the residential development was approved while on the other KLP policy LP52 and chapter 15 of the NPPF will seek protect residents from excessive noise.

- 10.18 Currently the facility has approval to operate 63 hours per week with variable finishing times between 9pm and 10pm during weekdays and 5pm Saturdays. Under the currently agreement the pitch is not used on a Sunday. Note, however that the car boot sale and match days are normal activities not controlled under the provisions of condition 40. It is also important to note that the activities set out in the agreed matrix are rigid allocated time slots for certain activities. In particular, during evening hours when disturbance is most likely to occur (5pm-10pm) the time slots are allocated to Local Clubs, Rams and Semi Pro RL Clubs Monday to Thursday and 5-a-side football on a Friday.
- 10.19 The applicant now proposes to operate the pitch during 60.5 hours within the week with finishing times of 8:30pm Mondays to Fridays and 1pm Saturday and Sunday. However there are no restrictions on the types of sports played on the pitch.
- 10.20 The applicant submits that the rigid format does not allow for flexibility as Semi-Pro Clubs, Local Clubs and the Rams may wish to use the pitch at other times or are not available at their given time slot. This is evidenced by the fact the applicant is under financial pressure to meet the costs of maintenance by seeking optimal use for the pitch which has led to unused time slots being hired typically for 5-a-side football uses which attracts a higher revenue stream.
- 10.21 Consequently, it is envisaged that the proposed flexible will result in the more intensive 5-a-side football uses operative during evening hours leading to more people playing sports and increased likelihood of ball strikes against the metal perimeter fencing thus increasing the noise intensity. Environmental Health officers raised concern over this issue, particularly if the activities were to continue to 9:30pm as initially proposed.
- 10.22 However, after negotiation with the applicant, the proposed finishing time was reduced from 9:30pm to 8:30pm Mondays to Fridays and 1:30pm to 1pm Saturdays and Sundays. An added one hour respite during the day was also agreed.
- 10.23 In light of the re-negotiated times, Environmental Health officers, whilst recognising that noise will still be made, consider the proposed hours would limit the activities to a level whereby noise nuisance is kept to a minimum. While this is not entirely consistent with KLP policy LP52 or NPPF chapter 15, negotiations have resulted in a significant reduction in finishing times. There are no concerns raised regarding the use of the Multi Games Areas given their location away from residential properties.
- 10.24 Balanced against this is that officers accept that the applicant needs to operate the pitch at its optimal viable use, sufficient to ensure that the important community facilities continue to be available. This, as stated above, is consistent with the Council policy objectives and as previously accepted by Committee upon approval of the planning permission also carries "considerable weight" (see paragraph 10.3 above).

10.25 It is recognised this is a fine balance and the Council has been supportive of the residents concerns over noise by offering assistance in protecting their properties from an excessive noise. However, great weight is placed on the provision of quality community facilities which go towards achieving healthy lifestyles.

10.26 Based on the evidence available and with respect to those making representations, in exercising the “planning balance” officers are of the opinion, for the reasons stated above, that the considerable policy weight given to KLP LP47,48 & 50 and NPPF chapter 8 overcomes the harm that may be caused through the operation of the pitch during the proposed times on the pitch. No material considerations would indicate otherwise.

Recommendation

10.26 It is therefore recommended to Members that the proposed Pitch Management Plan is agreed and the details required by condition 40 of planning permission ref: 2014/90780 is discharged.

Other Matters

10.27 Responses to representations made:-

- An increase in the use of the pitch will lead to further noise disturbances.

This is assessed in the main body of the report.

- The use of the pitch was for rugby training and community purposes only.

As stated in the main body of the report between paragraphs 10.1-10.4, the sporting facilities were provided to support the Rams as a community asset and provide community facilities for sports. The condition did not restrict the use of the pitches for community or training purposes only.

- There are already sufficient 3G pitches in the area.

As above

- Anti-social behaviour, foul language, whistles, ball strikes and shouting create noise.

This is assessed in the main body of the report.

- Balls kicked into gardens.

It is understood the applicant has now erected netting to prevent balls escaping from the pitch

- Car horns used when players leave the site.

This is assessed in the main body of the report.

- Floodlights create light disturbance

This is an issue outside the scope of condition 40 although Officers are working with the applicant to reduce any disturbance from light spill.

- Pitch erected closer to residential properties than approved

As stated in the report, officers consider the pitch to largely accord with the planning permission granted.

11.0 CONCLUSION

- 11.1 On the balance of all material considerations, it is recommended by officers that Committee resolve to delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development.

Background Papers:

Ref: 2014/93527 - Discharge of condition 40 – Management Plan -

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2014/93527&file_reference=519532

Ref: 2014/90780 – Erection of 206 dwellings – Committee report -

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2014/90780&file_reference=506695