

*Application Number:* SCC/3652/2019

*Date Registered:* 28 August 2019

*Parish:* Cheddon Fitzpaine Parish Council

*District:* Somerset West and Taunton

*Member Division:* Taunton North

*Local Member:* Councillor Giuseppe Fraschini

*Case Officer:* Stephen Boundy

*Contact Details:* [stephen.boundy@devon.gov.uk](mailto:stephen.boundy@devon.gov.uk) (01392 383000)

*Description of Application:* Variation of Condition 16 (Use of external sports facilities) of Planning Permission reference: 4/08/18/0004/OB to allow increased hours/days of use and use by community groups of the external sports facilities for a temporary period of 3 years.

*Grid Reference:* Easting - 324283, Northing - 126461

*Applicant:* Somerset County Council

*Location:* Land Off Nerrols Drive, Taunton, TA2 8QE

## **1. Summary of Key Issues and Recommendation**

**1.1 The proposed development relates to a variation of condition application to allow increased hours/days of use and use by community groups of the external sports facilities at Nerrols Primary School for a temporary period of three years. The main issues for Members to consider are: -**

- **the need for the development;**
- **the impact of the proposal on residential amenity; and**
- **traffic generation, parking and the highway network.**

**1.2 It is recommended that planning permission be GRANTED subject to the conditions set out in section 9 of this report, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Strategic Commissioning Manager – Economy & Planning.**

## **2. Description of the Site**

2.1 Nerrols Primary School is located on a relatively flat parcel of land extending to 1.23 hectares on Taunton's north-east urban edge. The external 3G sports pitch is located in the north eastern corner of the site, immediately bordered by recently constructed residential development to the north and north east. To the east/south east an existing Public Right of Way (PRoW, reference T5/14), which is a single-track lane known as Nerrols Lane, separates the site from an existing local business (dealing in farm machinery) and associated dwelling known as Crosslands Yard. To the west of the sports facilities are the school buildings and to the south is an area of school land where, until recently, a large Oak tree protected by a Tree Preservation Order stood. This tree was removed, with consent from Somerset West and Taunton Council, on safety grounds following an independent inspection which identified significant decay around the base.

## **3. The Proposal**

3.1 Condition 16 of planning permission reference 4/08/18/0004/OB relates to the use of external sports facilities and states "The external sports facilities at the development hereby permitted shall not be used except between the hours of 08:30h and 17:00h during weekday term-time periods only, and shall only be used by the school during those permitted hours".

3.2 The proposal is to vary this condition to:

"The external sports facilities at the development hereby permitted shall not be used except between the hours of:

- Monday to Friday (all year excluding bank and public holidays) 08:00h to 21:00h

- Saturday 09:00h to 14:00h
- Sunday 10:00h to 14:00h

There shall be no use on public and bank holidays.

For a period of three years beginning with the date on which this permission was granted. Thereafter, the external sports facilities shall not be used except between the hours of 08:00h and 17:30 during weekday term-time periods only, and shall only be used by the school during those permitted hours, unless otherwise agreed in writing.”

#### **4 Background**

- 4.1 Nerrols Primary School gained planning permission in 2018 (planning permission reference 4/08/18/0004/OB). The school opened in September 2019 and is part of the Richard Huish Trust.

#### **5. The Application**

- 5.1 Documents submitted with the application:

- Application Form
- Covering Letter
- Location Plan
- Planning Statement
- Noise Management Plan

#### **6. Environmental Impact Assessment (EIA)**

- 6.1 This development does not fall within the scope of Schedules 1 and 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and an Environmental Statement is therefore not required.

#### **7. Consultation Responses Received**

##### External Consultees

##### **7.1 Somerset West and Taunton Council**

No objection subject to suitable conditions ensuring that there is no use of the external sports facilities on Public Holidays or Bank Holidays and that the County Planning Authority is satisfied that the Noise Management Plan can be adhered to during the three years period.

##### **7.2 Cheddon Fitzpaine Parish Council**

‘The Parish Council object for the following reasons:

1. Car parking: The Parish Council object to ‘any’ parking in the immediate vicinity (i.e. Summerleaze Crescent) which causes problems for local residents. If those using the sports pitch can park within the school’s grounds, there would be no objection from the Parish Council. In this respect, a specific condition is required to strictly control and limit the numbers of vehicles visiting the school site. The school was originally a 7-class school, but with a 14-class building, it is requested this aspect is particularly pertinent to be controlled in the early stages of development.
2. Noise: It is a given that nearby residents bought knowing the location of the school and therefore some noise would be part of the surroundings. However, it is understood that ‘community groups’ could be teenagers and adults; therefore, noise or sound in the immediate vicinity from adults would not have been anticipated and is an unexpected issue.

*Points to note:*

3. Promotion of sustainable transport: the use of walking, cycling or the No2/2A bus service is to be promoted to reduce traffic or parking problems.
4. Lighting: there is no outdoor lighting at present; therefore, the sports pitch can only be used in daylight hours in the first instance.
5. Community Groups: this could include teenagers and adults – e.g. men’s walking football.’

### 7.3 Sport England

Sport England supports the increased use of the school site for community sport.

#### Internal Consultees

### 7.4 County Council Acoustics Specialist

In determining the planning application for this school, it was recognised that inadequate land area existed to provide sufficient natural play space for the numbers of children to be accommodated at the school, and as such, an artificial pitch was therefore necessary to overcome this design constraint and meet the statutory provision. Although the risk of noise from the sports pitch was highlighted during initial school layout proposals it was indicated that the presence of a protected tree had dictated the location of the artificial pitch to be at the shared boundary with new residential development.

As such the pupil capacity requirements of design, and the spatial constraints of the development site removed any option to separate a source of noise from noise sensitive development. These design choices and site constraints now result in a situation where noise from sports pitch use is expected to be distinctive to a number of nearby residents and the applicant’s objectives to seek extended usage present an increased risk of conflict with typical residential expectations for amenity.

I have indicated in earlier reports that I have several concerns with the approach adopted in Sport England Design Guidance Note 2015 (Artificial Grass Pitch Acoustics – Planning Implications) to define what might be considered acceptable noise from a facility and this matter is complex. Clearly development context is a consideration to assessing noise impact, as recognised in BS4142 and it might be reasonable to expect that residents living near to a Primary School will have different expectations for amenity than those living near to major road or a sports centre. The expectation for residential amenity might also vary for reasons of time period, chosen activity, weather and day of the week and the noise arising from the facility might conflict with these to varying extents due to the particular sport activity, the vocal energy of participants and the verbal content that is audible. What would appear evident from noise predictions and previous consideration of this development is that the noise from sporting use will be distinctive to some residents, and while there may be expectations and some acceptability for this form of noise from typical school periods of use, I think there may be less tolerance to its presence during evening and weekend periods of non-school use.

The present planning consent accepted that the risks of residential disturbance from typical primary school use during the daytime would be likely to be insufficient to justify planning objection to the entire school development. However, in my view this does not infer that ‘the proximity of the proposed 3G pitch to the nearest residential property was acceptable’, as clearly this it is not ideal and would not have resulted if greater design freedom had existed. Condition 16 therefore placed a restriction on the type and hours of use with the intension of accommodating typical primary school activity as might be expected by residents moving to housing on the boundary of a primary school.

The applicant’s recent proposal for a temporary extension to operational hours might now be considered as a reasonable approach to testing the actual impact of the development when used for non-primary school uses and help to define a situation and regularity of use that might be acceptable to residents. The applicant has also provided a Noise Management Plan that identifies a Code of Conduct to be enforced by the Head Teacher to support extended use and this will help to address issues of unnecessary noise and unacceptable verbal content. As such the proposal provides opportunity for planning to access the effectiveness of the Noise Management Plan and better consider any future request to grant extended facility usage after three years.

While the applicant has provided a plan to minimise and address aspects of unreasonable noise from the facility I still have concerns that unavoidable aspects of noise from out-of-hours use of a school pitch could give rise to residential disturbance and that this risk could increase as the school pupil use increases as the school fills and when attempts are made to maximise out-of-school use to generate income from the pitch. As such I consider planning conditions would be necessary to ensure the capture of information helpful to establishing reasonable terms of usage if the grant of temporary use permitted. In my view this would then seem reasonable way forward

and would fulfil the planning role to ‘facilitate development where possible’ as it would provide an opportunity for the applicant to collect evidence to support any future proposals for extended sports pitch usage. In my view any temporary consent should therefore require the school to:

- Maintain, and provide to the planning authority on request, the full details of facility usage (date, time, activity) during the extended hours permitted by this consent;
- Provide a letter to the residents located within 50m of hired facilities detailing the terms of temporary extended usage, the existence of a Noise Management Plan and user Code of Conduct and the relevant contact details to notify should disturbance arise.
- Provide the planning authority with a full record of any Noise Management Plan entries at their request.

I am not certain if a three years temporary consent would be sufficient to establish both full school time usage and establish the levels of out-of-school usage intended to fund the facility and this point might be worth clarifying.

#### **7.5 Highways Development Management**

The Highway Authority considers that the proposal is likely to have only a negligible impact on highway safety and as such have no objections to the proposal.

#### **7.6 Public Consultation**

The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. Resulting from this consultation, five letters of objection were received to the proposals. These objections raised the following issues:

- impact upon residential amenity;
- impact of the proposal and school more generally on the highways network and parking in the local area;
- potential damage to vehicles/property from users of the facilities;
- recent loss of the protected oak; and
- impact upon the health of adjacent residents.

### **8. Comments of the Strategic Commissioning Manager – Economy & Planning**

8.1 The key issues for Members to consider are:

- the need for the development;
- the impact of the proposal on residential amenity; and

- traffic generation, parking and the highway network.

## **8.2 The Development Plan**

8.2.1 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the following documents, with their policies of relevance to this proposal being listed in Section 10 of this report:

- Taunton Deane Borough Council Core Strategy (2012)
- Taunton Deane Borough Council Site Allocations and Development Management Plan (2016)

## **8.3 Material Considerations**

8.3.1 Other material considerations to be given due weight in the determination of the application include the following:

- the National Planning Policy Framework [NPPF] - February 2019
- Planning Practice Guidance [PPG]

## **8.4 The need for the development**

8.4.1 The need for the extension of hours of use for the external sports facilities is to allow greater use of the sports facilities by the school outside of the school day for before and after school clubs, and the hosting of local competitions. Additionally, the removal of the restriction on community use will generate what the applicant considers to be an 'essential' income supply for the school. This can be focussed towards the ongoing maintenance of the 3G sports pitch, including funds towards the future replacement of the pitch when it reaches the end of its useable life. It should be noted that paragraph 94 of the NPPF (2019) states that Local Planning Authorities should "give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications".

## **8.5 The impact of the proposal on residential amenity**

8.5.1 Policy DM1 (General Requirements) of the Taunton Deane Borough Council Core Strategy (2012) states that 'potential air pollution, water pollution, noise, dust, lighting, glare, heat, vibration and other forms of pollution or nuisance which could arise as a result of the development will not unacceptably harm public health or safety, the amenity of individual dwellings or residential areas or other elements of the local or wider environment'.

8.5.2 In this instance it is considered that the main impact on residential amenity arising from the proposal is from noise associated with the proposed longer hours of use and community use.

- 8.5.3 This impact on residential amenity is for a temporary three years period and the extended use of the facility will naturally be limited to some extent to daylight hours due to the absence of floodlighting, which is not proposed by this application.
- 8.5.4 At the end of this three years period the permitted hours of use will revert to that which was previously permitted, and community use will no longer be allowed. Planning Practice Guidance states that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area. There is no presumption that a temporary grant of planning permission will then be granted permanently. It should also be noted that it will rarely be justifiable to grant a second temporary permission.
- 8.5.5 Whilst the proposed increased use will undoubtedly affect the noise environment within the local vicinity, this is in the context of an existing school, for a temporary period. The school is proposed to implement a noise management plan which includes a comprehensive complaints procedure. In addition to this, it is considered necessary to condition that a letter shall be provided to the residents located within 50m of hired facilities detailing the terms of temporary extended usage, the existence of a Noise Management Plan and user Code of Conduct and the relevant contact details to notify should disturbance arise. Records shall also be kept of the details of community usage (dates, times and activities) and provided to the County Planning Authority upon request along with details of any complaints received.
- 8.5.5 With the above in mind, it is considered that overall the proposed increase in usage of the external sports facilities will not have an unacceptable impact on residential amenity and is therefore in accordance with Policy DM1 (General Requirements) of the Taunton Deane Borough Council Core Strategy (2012).

## **8.6 Traffic generation, parking and the highway network**

- 8.6.1 The aspect of this proposal that will generate additional traffic and have an impact on parking is the proposed community use. However, community use of the external sports facilities will occur outside of the usual school hours and as such will not cause any additional impact on any existing parking issues caused by the use of the wider school site. The school car park provides 33 standard spaces, two accessible spaces and two motorcycle parking spaces. There is also cycle parking adjacent to the pitch.
- 8.6.2 Overall, given the level of existing parking available on site, the proximity of the site to the community that will use it, and the level of community use the facility is likely to attract, it is considered that the proposal will not have an unacceptable impact upon traffic generation, parking and the highways network. The proposals are therefore in accordance with Policies A1 (Parking Requirements) and A2 (Travel Planning) of the Taunton Deane Borough Council Site Allocations and Development Management Plan (2016).

## **8.7 Conclusions**



8.7.1 In conclusion, it is considered that the need for the proposed extension of hours of use and community use of the external sports facilities outweighs the temporary impacts on the residential amenity of adjoining residents, which can be sufficiently reduced and controlled by the Noise Management Plan. Overall it is considered that the proposed development is in accordance with both local and national planning policy and should therefore be granted subject to conditions.

## 9. Recommendation

**9.1 It is recommended that planning permission be GRANTED subject to the imposition of the following conditions, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Strategic Commissioning Manager – Economy & Planning.**

1. The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: Pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in strict accordance with the approved plans:

- Location Plan reference 151271-STL-00-00-DR-L-ZZZZ-09010 Revision P20 prepared by Stride Treglown dated 11.1.18;
- Existing Site Plan reference 151271-STL-00-00-DR-L-ZZZZ-09020 Revision P20 prepared by Stride Treglown dated 11.1.18;
- GA plan – GF reference PL150 Revision 5 prepared by Hunter South Architects dated 11.12.17;
- GA plan – FF reference PL151 Revision 4 prepared by Hunter South Architects dated 11.12.17;
- GA Roof Plan reference PL152 Revision 2 prepared by Hunter South Architects dated 11.12.17;
- GA Elevations reference PL155 Revision 3 prepared by Hunter South Architects dated 11.12.17;
- Site Sections – sheet 1 of 2 reference 151271-STL-00-00-DR-L-ZZZZ-09601 Revision P20 prepared by Stride Treglown dated 11.1.18;
- Site Sections – sheet 2 of 2 reference 151271-STL-00-00-DR-L-ZZZZ-09602 Revision P20 prepared by Stride Treglown dated 11.1.18;
- Landscape General Arrangement reference 151271-STL-00-00-DR-L-ZZZZ09001 Revision P23 prepared by Stride Treglown dated 8.3.18;

- Planting Plan reference 151271-STL-00-00-DR-L-ZZZZ-09140 Revision P20 prepared by Stride Treglown dated 11.1.18;
- Boundary Treatment Plan reference 151271-STL-00-00-DR-L-ZZZZ-09180 Revision P23 prepared by Stride Treglown dated 8.3.18;
- NER-HYD-00-XX-DR-C-7500-P2 Site Plan;
- NER-HYD-00-XX-DR-C-7501-P2 Drainage Layout;
- NER-HYD-00-XX-DR-C-7510-P2 Drainage Details;
- NER-HYD-00-XX-DR-C-7511-P1 Drainage Details;
- NER-HYD-00-XX-DR-C-7520-P1\_ External Works;
- NER-HYD-00-XX-DR-C-7530-P1\_ External Details;
- NER-HYD-00-XX-DR-C-7540-P1\_ Swept Path Analysis;
- NER-HYD-00-XX-DR-C-7550-P1\_ Signing and Lining;
- 08410-HYD-XX-XX-DR-D-0001 Revision P05;
- 08410-HYD-XX-XX-DR-D-0002 Revision P04;
- 08410-HYD-XX-XX-DR-D-0001 Rev P05;
- NER-HYD-00-XX-DR-C-7001 Rev C11;
- NER-HYD-00-XX-DR-C-7200 Rev C10;
- NER-HYD-00-XX-SK-C-8010 Rev C2;
- NER-HYD-00-XX-DR-C-7300\_C1 - External Details;
- NER-HYD-00-XX-DR-C-7200\_C2 - External Works at Land off Nerrols Drive;
- 4418E-SDS-X0-EX-DR-E-7080-2501 Revision C04;
- 151271\_C01\_190524\_ Cover Letter;
- NER-HYD-00-ZZ-RP-C-0003 Revision P2;
- A-02.00 Rev: 2 (Proposed Site Plan – Landscape General Arrangement);
- 916-01C (Landscape Proposals);
- A-02.05 Rev: A (External WC and Bin Store);

and specifications:

- Planning, Design and Access Statement reference 151271\_R\_171205\_PDAS Revision P1 prepared by Stride Treglown dated March 2018;

- Transport Assessment reference 065668 Revision V00 prepared by Curtins dated 5.1.18;
- Site Waste Management Plan reference GP-FM-EM-260 Revision A prepared by Wilmott Dixon dated 17.12.17;
- Environmental Noise Report reference 6708/PP/pw Revision B prepared by Acoustic Consultants Ltd dated 4 January 2018;
- Arboricultural Impact Assessment and Arboricultural Method Statement reference NerrolsFm\_AIA\_AMS\_29122017\_SRv2 prepared by Assured Trees dated 29.12.17;
- Utility Statement reference C-07416-C prepared by Hydrock dated 6.10.17;
- Construction & Environmental Management Plan Rev.01, prepared by Wilmott Dixon dated 09/04/18;
- Preliminary Ecological Appraisal Update Survey reference 003STTR100 prepared by Abricon dated 5.1.18;
- Flood Risk Assessment reference C-07437-C prepared by Hydrock dated 11.1.18;
- Geotechnical Statement reference C13872/008 prepared by Hydrock dated 22.9.17;
- Planning application form prepared by Stride Treglown dated 11.1.18;
- Nerrols Primary School and Nursery Travel Plan dated 17.5.19;
- Nerrols Primary School and Nursery Noise Management Plan Community Use 3G Artificial Grass Pitch (AGP);

and with any scheme, working programme or other details submitted to and approved in writing by the County Planning Authority in pursuance of any condition attached to this permission.

Reason: To enable the County Planning Authority to deal promptly with any development not in accordance with the approved plans.

3. Within a month prior to the commencement of the development hereby permitted, a public highway surface condition survey shall be undertaken of the public highway 50m in either direction of any permanent and temporary construction vehicular access, the details and results of which shall be submitted to the County Planning Authority prior to the commencement of the development hereby permitted for approval. Within 1 month of the date of completion of the construction phase of the development hereby permitted, a public highway surface condition re-survey of the same piece of public highway shall be undertaken, the details, results and any proposed repair works including timings shall be submitted to and approved in writing

by the County Planning Authority before the development hereby permitted is first brought into use

Reason: To ensure that highway safety and operation is not compromised.

4. The three proposed pedestrian accesses onto Nerrols Drive and Nerrols Farm Lane shall incorporate pedestrian visibility splays on both sides to the rear of the existing footway / carriageway edge based on dimensions of 2.0 metres x 2.0 metres, with no obstruction above 300mm. Such splays shall be fully implemented before the accesses and the development hereby permitted are first brought into use and shall thereafter be maintained for the duration of the development hereby permitted.

Reason: To ensure the safety of pedestrians accessing the development hereby permitted.

5. No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the County Planning Authority.

Reason: in the interests of nesting wild birds.

6. For a period of three years beginning with the date on which this permission was granted, the external sports facilities at the development hereby permitted shall not be used except between the hours of:
- Monday to Friday (all year excluding bank and public holidays) 08:00h to 21:00h;
  - Saturday 09:00h to 14:00h; and
  - Sunday 10:00h to 14:00h.
  - There shall be no use on public and bank holidays.

Thereafter, the external sports facilities shall not be used except between the hours of 08:00h and 17:30 during weekday term-time periods only, and shall only be used by the school during those permitted hours, unless otherwise agreed in writing.

Reason: To limit the noise impacts on residential amenity.

7. Within three months of the date of this permission, a letter shall be provided to the residents located within 50m of hired facilities detailing the terms of temporary extended usage, the existence of a Noise Management Plan and user Code of Conduct and the relevant contact details to notify should disturbance arise. Full details of any complaints subsequently received shall be provided to the County Planning Authority upon request.

Full details of community use of the external sports facilities shall be recorded (date, time and activity) and provided to the County Planning Authority upon request.

Reason: To limit the noise impacts on residential amenity.

### **INFORMATIVES**

The Football Foundation / Somerset FA would welcome an opportunity to meet with the school to align some usage.

## **10 Relevant Development Plan Policies**

10.1 The following is a summary of the reasons for the County Council's decision to grant planning permission.

10.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the development plan unless material considerations indicate otherwise. The decision has been taken having regard to the policies and proposals in:-

- Taunton Deane Borough Council Core Strategy (2012)
- Taunton Deane Borough Council Site Allocations and Development Management Plan (2016)

The policies in the development plan particularly relevant to the proposed development are:

- DM1 (General Requirements)
- A1 (Parking Requirements)
- A2 (Travel Planning)

10.3 The County Planning Authority has also had regard to all other material considerations.

### **10.4 Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015**

In dealing with this planning application the County Planning Authority has adopted a positive and proactive manner. The Council offers a pre- application advice service for minor and major applications, and applicants are encouraged to take up this service. This proposal has been assessed against the National Planning Policy Framework, Minerals Local Plan and Local Plan policies, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reasons for approval. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary.