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## Appeal Decision

Site visit made on 4 September 2017

by **Robert Parker BSc (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 December 2017

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**Appeal Ref: APP/R3325/W/17/3172410**

**Land adjacent to and west of Lufton College and north of Red Brick Cottage, Lufton, Yeovil, Somerset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Fry of Yeovil Town Football Club and Yeovil Town Holdings Limited against the decision of South Somerset District Council.
  - The application Ref 15/02535/FUL, dated 1 June 2015, was refused by notice dated 27 September 2016.
  - The development proposed is change of use of land from agricultural to community playing field and recreation use along with pavilion, associated access, replacement field accesses and car parking.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of land from agricultural to community playing field and recreation use along with pavilion, associated access, replacement field accesses and car parking at Land adjacent to and west of Lufton College and north of Red Brick Cottage, Lufton, Yeovil, Somerset in accordance with the terms of the application, Ref 15/02535/FUL, dated 1 June 2015, subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Yeovil Town Football Club and Yeovil Town Holdings Limited against South Somerset District Council. This application is the subject of a separate decision.

### Procedural Matters

3. The decision notice uses a different site address to that provided on the application form. There is nothing before me to indicate that this was agreed in writing between the parties and therefore my formal decision reverts to the original form of wording. This is adequate to describe the location of the site.
4. During my visit I was able to make an assessment of the proposal from the garden of Red Brick Cottage. This was following a prior written invitation for me to view the site from this property.

## **Main Issues**

5. The main issues in this case are:
- a) the effect of the proposal on the character and appearance of the surrounding area;
  - b) whether the development would preserve the setting of nearby designated heritage assets;
  - c) whether safe and suitable access to the site can be achieved for all people; and
  - d) whether the proposal would lead to unacceptable levels of crime, disorder and anti-social behaviour.

## **Reasons**

### *Character and appearance*

6. The appeal site comprises one half of an arable field within the hamlet of Lufton on the north-west fringes of Yeovil. The land slopes downwards from Thorne Lane towards Lufton Lane to the south and totals approximately 5.1 ha in area. Red Brick Cottage nestles in a hollow at the base of the site. To the east of this property, behind a band of trees, lies Cambian Lufton College which is centred on the Grade II listed Lufton Manor House. Further along the lane to the west there are a number of other notable buildings, including the Church of St Peter and St Paul, Lufton House and Manor Farm. The first two buildings are listed whereas the latter forms part of the college.
7. The hamlet lies in attractive rural surroundings and retains its own distinctive identity, despite the threat from an expanding Yeovil to the east. The appeal site currently has an agrarian character with clear visual linkages to open countryside to the north and west.
8. The proposal is to terrace the sloping site to create a pair of level football pitches. A cricket pitch would also be provided but this would overlap the northern pitch and the two could not be used concurrently. A pavilion and equipment store would be constructed towards the north-eastern corner of the land and an informal parking area created behind the boundary hedge adjacent to Thorne Lane. The site would be landscaped with a new surface water attenuation feature in the lowest corner nearest Red Brick Cottage.
9. The development would unquestionably alter the character and appearance of the site. The issue for me to consider is whether this would be materially harmful. Although substantial engineering operations in their own right, the proposed cut-and-fill to create the pitches would be minor interventions in the wider landscape. The pavilion and storage shed would be modest buildings and both would be sunken into the slope of the land, such that only the roof of the pavilion would be visible from Thorne Lane. The proposed parking area would be informal in nature and overflow parking would be grass based.
10. The development would be publicly visible from the site entrances and in private views from Red Brick Cottage and Stone Cottage to the south of Lufton Lane. However, the landscape and visual impacts would be localised. A condition could be used to secure native planting along the western boundary to help provide a new interface with the countryside and additional containment for the site.

11. I am mindful that it is common to find sport and recreation facilities on the edges of settlements where the land is available. Such developments do not replicate the character or appearance of farmland, but they share the same sense of openness. Having regard to this and my observations on site, I am satisfied that the appeal scheme would not cause material harm to the character or appearance of the surrounding area. It would thus comply with Policy EQ2 of the South Somerset Local Plan (2006-2028) (SSLP) insofar as it seeks to conserve and enhance landscape character and respect local context.

#### *Heritage assets*

12. The decision notice alleges harm to nearby designated heritage assets but does not identify the particular assets in question. According to the Council's statement, which cites an objection from the authority's Conservation Officer, the concerns relate in part to the effect on the settings of Lufton Manor House, Lufton House and the Church of St Peter and St Paul. All three listed buildings are separated from the appeal site by mature trees and vegetation which prevent any intervisibility.
13. The Council suggests that the above heritage assets enjoy a rural setting. However, it fails to provide any specific evidence to show how the appeal site contributes to the significance of those assets. Given my observations, and the lack of any visual connections, I am not persuaded that the proposal development would have a significant detrimental impact on the settings of listed buildings.
14. Concerns are also raised regarding the effect on St Michaels Hill (scheduled monument) and Tower (Grade II listed) and Montacute House (Grade I listed) and its registered historic park and garden. These designated heritage assets lie approximately 1.7 km west of the appeal site.
15. The appeal site falls outside of the 'core' setting identified in the Montacute Setting Study. The proposed development would not be visible from the house due to intervening topography and vegetation and it would not form part of the immediate visual background to views from within the registered landscape. It would be seen from the tower, but the land would remain green and open, and the buildings and engineering works would be difficult to discern at this distance, with the eye being drawn to the industrial sheds of Yeovil beyond. Landscaping along the western site boundary would also act to screen and filter such limited views as may exist.
16. Accordingly, I find that the proposal would not be detrimental to the setting of designated heritage assets. It would comply with Policy EQ3 of the SSLP, the purpose of which is to conserve and enhance heritage assets for their historic significance and important contribution to local distinctiveness, character and sense of place.
17. Even if I were wrong with this assessment, the Council concedes that any harm to designated heritage assets would be less than substantial. Paragraph 134 of the National Planning Policy Framework (the Framework) states that in such instances, the harm should be weighed against the public benefits. In my opinion, any minor harm to heritage assets would be outweighed by the public benefits arising from the increased supply of playing pitches and greater community participation in active sport.

*Crime, disorder and anti-social behaviour*

18. The Council argues that the isolated location of the site provides limited opportunity for passive surveillance, and that this would create the potential for crime, disorder and anti-social behaviour.
19. There would be a number of dwellings with windows overlooking the playing fields, but this in itself would not guarantee security. The appellant is proposing that the site be taken on by the Community Sports Trust which already has experience in managing similar recreational facilities. The Council is concerned that the involvement of this charitable body is not secured within a legal agreement accompanying the planning application. However, its objective to secure appropriate management of the facility could be met using a planning condition. The Planning Practice Guidance (PPG)<sup>1</sup> advises that conditions should always be used in preference to planning obligations.
20. Planning conditions can also be imposed to require the installation of security lighting and the submission of further design details to make the buildings more resilient to physical attack and less attractive as a venue for anti-social behaviour. A further condition could secure the provision of a height barrier at the entrance and restrict vehicle entry during the hours of darkness. Whilst these measures would not prevent access on foot, they would be proportionate to the nature of the threat and commensurate with similar facilities in the area.
21. I conclude that with the aforementioned mitigation in place the proposal would not be likely to give rise to unacceptable levels of crime, disorder and anti-social behaviour. It would adequately address crime prevention and community safety in accordance with the requirements of Policy EQ2 of the SSLP and paragraph 58 of the Framework.

*Access for pedestrians and cyclists*

22. The principal access for vehicles would be from Thorne Lane, with the majority of traffic likely to be using the relatively short (circa 1.25 km) stretch of lane between the site entrance and Western Avenue to the east. A secondary access for maintenance, emergency vehicles, pedestrians and cyclists would be formed onto Lufton Lane.
23. The Council is concerned that the lack of footways, margins and lighting, coupled with the shadows cast by tall hedgerows, would make both lanes unsafe for pedestrians. Furthermore, it considers that neither lane is suitable for less experienced cyclists, especially young children.
24. It is estimated that there could be up to 50 players on site at any one time. This is not unrealistic. However, at this 'grass roots' level of sport spectators are likely to be family and friends who travel together in the same car. Whilst the 'tidal' volumes of traffic along Thorne Lane would be noticeable before and after matches, they would not be significant in absolute terms. The proposed on-site parking would be sufficient to prevent overspill onto the adjacent lane.
25. Thorne Lane is lightly trafficked and vehicle speeds did not strike me as being excessive, with drivers taking appropriate care on the bends. The width of the lane varies along its length, with some sections being narrower than others, but forward visibility is generally good and there is ample opportunity for vehicles

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<sup>1</sup> Reference ID: 21a-011-20140306

to pass one another. There is also room to overtake without posing a threat to pedestrians and cyclists. Although I acknowledge the comments regarding the lack of street lighting, the facility would only be used in daylight. The application does not propose to floodlight the new pitches and therefore pedestrians would not need to use the lane in darkness.

26. The appeal site lies within approximately 300 m of the Lufton Key Site, an allocation for nearly 700 dwellings which is under construction to the south. Residents of this new development would be able to walk the short distance along Lufton Lane to access the proposed recreational facilities. The lane was temporarily closed to through-traffic at the time of my visit, but I saw nothing to persuade me that this route would be unsuitable or unsafe for pedestrians or cyclists. Much of the traffic along Lufton Lane is destined for the college, but the peak periods do not coincide with the times when the pitches are most likely to be in use.
27. I note that there are proposals, as part of the Lufton Key Site, to close the lane at some point along its length. Although such a closure is not necessary to make the appeal scheme acceptable, it would further reduce the traffic levels along the lane and increase its suitability for pedestrians and cyclists.
28. Accident data indicates that there have been two personal injury collisions in the vicinity of the appeal site since 2008, one on Thorne Lane and another on Lufton Lane. Both were recorded as 'slight' in terms of severity. I do not have the full circumstances of each incident and therefore do not know the causal factors. Nevertheless, the evidence does not point to either lane having a particularly poor safety record. It adds very limited weight to the Council's case.
29. To conclude, whilst the proposal would increase vehicle movements in the vicinity of the site, it would not present an unacceptable risk to other road users. Access to the site would be safe and suitable for pedestrians and cyclists. The scheme would thus comply with Policy TA5 of the SSLP and paragraph 32 of the Framework.

### **Other Matters**

30. There is some suggestion that the proposal is intended to replace existing pitches belonging to Yeovil Town Football Club at Huish Park. Any debate over the suitability of the appeal scheme as a replacement for these facilities should be had in the context of an application for development at that site. I must treat the proposal before me on its own merits.
31. It is put to me that there is already satisfactory pitch provision in the area. However, I note the conclusion of the draft South Somerset Playing Pitch Strategy that the stock of playing pitches across the district is not sufficient to meet current and future demand. Users have identified a particular shortage for youth teams, including in the Yeovil area. Objectors counter by arguing that the Lufton Key Site offers shared use of the Kingfisher School facilities. They also advise me that the Westlands Sports site is now under council control. Notwithstanding this, there is no compelling evidence to show that the proposal would result in a surplus of pitches, but even in that scenario I am not convinced that material planning harm would arise from over-provision.
32. Wessex Water has recently finished installing a water main across the appeal site. This may need to be diverted at the applicant's expense but would not

prevent the proposal from going ahead. I note that the appellant has already been in communication with the statutory undertaker to discuss the matter.

33. The residents of Red Brick Cottage have raised concerns regarding loss of privacy within their bedrooms, ball trespass and the proximity of pitch users to beehives. I gave careful consideration to these matters during my visit but am content that the pitches would be sufficiently far from the boundary to prevent unacceptable adverse impacts. There is scope for landscaping to provide additional protection from overlooking and greenhouse damage. Whilst there would be some noise whilst the pitches are in use this would not be of such volume or duration as to constitute a material nuisance.
34. Photographs supplied by the owners of Red Brick Cottage illustrate the problems that are experienced with surface water runoff from the adjacent arable field. The appeal proposal provides an opportunity to address this issue through the provision of suitable on-site drainage and a soakaway/attenuation facility at the lowest point of the site. This benefit carries some weight in favour of the scheme.
35. I understand that tankers use the field to empty the septic tank belonging to Red Brick Cottage. This is a private matter between landowners, but there is no practical reason why this cannot continue – subject to the landscaping and drainage schemes being designed to accommodate it.
36. Despite concerns to contrary, there is no logical reason why the other half of the field should not continue in agricultural use. The proposal facilitates this by providing new accesses to this parcel of land.
37. Questions have been raised regarding financing for the project and long term viability. There is concern that public funding may be required. However, such matters are not directly relevant to my assessment of the planning merits of the application.
38. The officer report states that the proposal would result in the loss of grade 1 agricultural land. The Framework states at paragraph 112 that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to that of a higher quality. In my judgement any harm arising from the loss of this site for arable cultivation would be modest and outweighed by the health benefits arising from this new community facility.
39. I have noted the other concerns relating to sewage disposal, the effect on badgers, archaeology and the absence of an agronomy report. However, these issues can all be addressed using appropriately worded planning conditions. I have taken into consideration all other matters raised in representations, including the lack of community consultation, but none is of such substance or weight as to alter my conclusions on the main issues.

### **Conditions**

40. The Council has suggested various conditions in the event that I am minded to allow the appeal. I have considered each against the six tests set out in paragraph 206 of the Framework and advice within the PPG. Where necessary I have adjusted the wording to improve precision and enforceability.

41. In addition to the standard commencement condition, it is necessary to attach a condition to define the plans with which the scheme shall accord. This will provide certainty regarding the scope of the permission. Conditions are also required to secure details of external design and materials for the pavilion and equipment store, and the internal ground floor levels of those buildings relative to a datum point and proposed site levels, in the interests of the character and appearance of the area. For the same reason, and to help provide defence against overlooking and ball trespass, a condition is needed to secure the submission and implementation of a scheme of landscaping and tree protection.
42. To prevent problems with flooding and surface water runoff, conditions are necessary to ensure that the site is properly drained. I agree that details should be subject to the Council's prior approval and that the scheme should be based on infiltration techniques, as per the Flood Risk Assessment. A scheme for the future responsibility and maintenance of the surface water drainage system should also be provided, to guarantee its operation in the long term. Provision should also be made for foul drainage to the pavilion and a separate pre-commencement condition is required in relation to this.
43. The risk of crime, disorder and anti-social behaviour can be adequately mitigated using conditions which ensure the installation of security lighting and the incorporation of appropriate design features into the buildings to make them resilient to attack. These details will need to be approved by the Council. A further condition will also be needed to secure a scheme for the management of access arrangements, which shall include provision of a height barrier at the northern access point and measures to prevent vehicular entry at night.
44. The proposal is for a number of new and altered access points from Thorne Lane and Lufton Lane, including replacement field accesses for agricultural land to the west of the site. Conditions will ensure the construction of these accesses to the relevant highway standards prior to first use of the development. The existing access onto Lufton Lane immediately to the west of Red Brick Cottage can remain to provide access to the property's private drainage system, but it should not be used to provide access to the site. A condition to secure this is justified in the interests of highway safety.
45. Sport England has suggested a number of conditions the aim of which is to ensure that the playing field and pitches are of an acceptable quality. I agree that such conditions are necessary. It is also reasonable to impose conditions requiring the submission for the Council's written approval of a Management and Maintenance Scheme and a separate Community Use Scheme. These schemes will provide certainty over the delivery of the claimed community benefits and ensure that the facilities are responsibly managed in the long term.
46. The proposal is to use the site for sport and ancillary uses. The application was considered on this basis and therefore it is sensible to restrict use of the site accordingly. Other assembly and leisure uses within the D2 Use Class would require a fresh grant of planning permission and would need to be assessed on their own merits.
47. The list of suggested conditions does not include one relating to archaeology. However, the Council has confirmed that a pre-commencement condition to address the matter is acceptable. The appellant has provided a suggested form of wording but I have used a more generic version to allow for a scheme of archaeological work to be agreed in liaison with the Council's archaeologist.

48. Although there is no firm evidence to confirm the presence of badger setts within the site itself, there are records of setts within the immediate vicinity. The use of the site by foraging or commuting badgers would not preclude the development from going ahead. However, it is relevant to consider whether mitigation measures are required, based on an up-to-date badger survey the findings of which will need to be submitted to the Council prior to any groundworks commencing.
49. For reasons of public safety, the overhead wires which currently cross the site will need to be redirected or grounded unless it can be demonstrated that they do not pose an unacceptable risk. I have attached a condition to secure this objective.

**Conclusion**

50. For the reasons given above, I conclude that the appeal should be allowed.

*Robert Parker*

INSPECTOR



### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - a) Location Plan, Drawing No. LGPS/YTHL/PP/GL/01/01
  - b) Existing Layout (Red Line), Drawing No. LGPS/YTHL/PP/GL/01/03
  - c) Proposed Layout, Drawing No. LGPS/YTHL/PP/GL/01/04 RevC
  - d) Proposed Pavilion Layout, Drawing No. LGPS/YTHL/PP/GL/01/08 RevC
  - e) Proposed Equipment Store, Drawing No. LGPS/YTHL/PP/GL/01/09 RevA
- 3) No development shall take place, including any ground works, until a badger survey has been undertaken by a suitably qualified ecologist, and a report setting out the findings of that survey (including details of any measures required to mitigate the impact of the development on badgers), has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the recommendations of the report.
- 4) No development shall take place until a scheme of landscaping and tree protection has been submitted to and approved in writing by the local planning authority. The scheme shall include the following details:
  - a) a comprehensive tree and hedge planting scheme (including a substantial planting belt along the western site boundary between the boundary and the maintenance track), the submitted details to include species, planting sizes and planting densities;
  - b) a layout plan of the below-ground drainage and services to be installed; and
  - c) a Tree Survey, Tree Protection Plan and Arboricultural Method Statement relating to all retained trees and hedges on or adjoining the site, so as to conform to BS 5837:2012 'Trees in relation to design, demolition and construction' which shall include:
    - i. a layout and specification of tree and hedge protection fencing;
    - ii. special protection and engineering measures for required access, installation of built structures, below-ground services, drainage and hard-surfacing within the Root Protection Areas of retained trees; and
    - iii. a schedule of compliance-monitoring for the duration of the construction phases of the development (inclusive of landscaping and dismantling of tree protection fencing).

All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first use of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of twenty years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. The tree protection scheme shall be implemented in its entirety for the duration of the construction of the development.

- 5) No development shall take place until a surface water drainage scheme for the site, utilising infiltration techniques and based on the Flood Risk Assessment prepared by LGPS Resources, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 6) No development shall take place until a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the local planning authority. The programme of archaeological work shall be carried out in accordance with the approved details.
- 7) No development shall take place until a scheme of foul water drainage has been submitted to and approved in writing by the local planning authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation the approved scheme shall be permanently retained and maintained thereafter.
- 8) No development shall take place until:
  - (a) A detailed assessment of ground conditions of the land proposed for the new playing fields as shown on drawing number LGPS/YTHL/PP/GL/01/04 RevC has been undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - (b) Based on the results of this assessment to be carried out pursuant to (a) above, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) has been submitted to and approved in writing by the local planning authority.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the local planning authority.

- 9) No works to construct the pavilion and equipment store shall be carried out unless the following details have been submitted to and approved in writing by the local planning authority:
  - a) details of the internal ground floor levels of the buildings relative to a datum point and proposed site levels;
  - b) specific materials and finishes to be used for the external walls and roofs;
  - c) materials to be used for rainwater goods;
  - d) the design, type of material, plus colour and finish of all windows and doors plus recesses; and
  - e) a statement to explain how design features to be employed will make both buildings more resilient to anti-social behaviour.

Development shall be carried out in accordance with the approved details.

- 10) The development hereby permitted shall not be brought into use until a scheme for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details.
- 11) The development hereby permitted shall not be brought into use until security lighting has been installed in accordance with details which have been first submitted to and approved in writing by the local planning authority. There shall

- be no other external lighting, including floodlighting of the playing fields, without a separate grant of planning permission from the local planning authority.
- 12) The development hereby permitted shall not be brought into use until all overhead wires have been suitably redirected or grounded, unless otherwise agreed in writing by the local planning authority.
  - 13) The development hereby permitted shall not be brought into use until a scheme for the management of the access arrangements has been submitted to and approved in writing by the local planning authority. The submitted details shall include provision for securing the site at night and the installation of a height barrier which shall be permanently maintained at the northern access point. The scheme shall be implemented in accordance with the approved details.
  - 14) The development hereby permitted shall not be brought into use until a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review has been submitted to and approved in writing by the local planning authority. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of the playing field and recreation use.
  - 15) The development hereby permitted shall not be brought into use until a Community Use Scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the development being brought into use and shall be complied with for the duration of its lifetime.
  - 16) The development hereby permitted shall not be brought into use until the four new/altered access points from Thorne Lane and Lufton Lane have been constructed in accordance with the details set out on the approved layout plan LGPS/YTHL/PP/GL/01/04 RevC. The area between the entrance thresholds and the edge of carriageway (the aprons) shall be properly consolidated and surfaced in either tarmacadam or concrete. Entrance gates shall be sited as per the approved drawing and hung to open inwards. The gradient of the proposed accesses shall not be steeper than 1 in 10 and provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway. Once constructed the accesses shall thereafter be maintained in accordance with these requirements at all times.
  - 17) The four new/altered access points from Thorne Lane and Lufton Lane shall be provided with visibility splays whereby there shall be no obstruction to visibility greater than 300mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the individual access concerned is first brought into use and shall thereafter be maintained at all times.
  - 18) The existing access onto Lufton Lane immediately to the west of Red Brick Cottage shall not be used other than for access to a private drainage system. Should the access not be required for such then it shall be permanently stopped up in accordance with details which have been first submitted to and approved in writing by the local planning authority.

- 19) The playing field and any buildings thereon shall be used for outdoor sport and ancillary uses and for no other purpose (including without limitation any other purpose in Class D2 of The Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 20) The playing field and pitches shall be constructed and laid out in accordance with the approved drawing number LGPS/YTHL/PP/GL/01/04 RevC and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011).

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