

Delegated Report

Planning Ref: 23/00674/FUL

Applicant: Mr A Blanchard

Ward: Ratby, Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Site: Ratby Cricket Club, Desford Lane, Ratby

Proposal: Siting of changing room, clubroom, welfare unit, maintenance and secure equipment store buildings for a temporary period of 3 years.

1. Recommendations

1.1. Refuse planning permission for the following reason:

1. Insufficient/lack of information in the form of a sufficient flood risk assessment and a foul drainage assessment has not been submitted to substantiate that the proposal would not impact flood risk and pollution. Such a proposal would thus be contrary to Policy DM7 of the adopted Site Allocations and Development Management Policies DPD 2016 and to guidance in the NPPF.
2. Insufficient/lack of information in the form of detailed plans provided the specifications required by Sport England to ensure that the proposed development of the units would be sufficient in safeguarding users and enhancing the recreational facilities on the site. In addition, the proposed units would not enhance the recreational facilities for the site in terms of both football and cricket usage due to the proposed design, siting and location. As such it is considered that the proposal is contrary to Policy DM8 of the adopted Site Allocations and Development Management Policies DPD 2016 and to paragraphs 102 and 103 of the NPPF.

3. Planning application description

- 2.1. The proposal seeks the siting of a changing room, clubroom, welfare unit, maintenance and secure equipment store buildings for a temporary period of 3 years.

4. Description of the site and surrounding area

The site is currently used as football pitches, and is located to the south of the wider site which is used for cricket and football recreation. The site is located away from Desford Lane. The site currently has a temporary permission for the siting of classroom units towards the north of the site and has a car parking facility to the north. The application is located within the Countryside and a flood zone.

5. Relevant planning history

21/00691/FUL

Four temporary mobile classrooms for educational use, play area, 2.1 metre high fencing and gates

Planning permission

16.03.2022

01/00874/FUL

ERECTION OF CHANGING ROOMS AND CRICKET PAVILION AND FORMATION OF CAR PARKING AREAS

Planning permission

02.12.2002

6. Publicity

5.1. The application has been publicised by sending out letters to local residents and a site notice posted within the local vicinity.

5.2. No comments have been received in relation to this application.

7. Consultation

6.1. Responses:

- LCC Highways: No objections.
- HBBC Drainage: No objections, subject to condition.
- HBBC Waste Management: No objections.
- HBBC ES Pollution: No objection.
- Parish Council: No comments received.
- Environment Agency: Objection relating to lack of a sufficient flood risk assessment and details to potential pollution.
- Sport England: Objection due to lack of details to the changing facilities, accessibility to the units and flood risk concerns.
- Football Foundation: Objections to the siting and lack of detail provided as to how the units will serve both football and cricket on the site.

8. Policy

7.1. Core Strategy (2009)

- No relevant policies

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM8: Safeguarding Open Space, Sport and Recreational Facilities
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- Sport England's Playing Fields Policy and Guidance Document

9. Appraisal

8.1. Key Issues

- Principle of development and impact on open space, sport and recreational facilities
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Preventing pollution and flooding

Principle of development and Impact on Open Space, Sport and Recreational Facilities

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. Policy DM4 of the SADMP seeks to protect the intrinsic value, beauty, open character and landscape character, to safeguard the countryside from unsustainable development. Development in the countryside is considered sustainable where;
- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries.
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.5. The proposal is located within the Countryside and therefore would need to be assessed against DM4 of the SADMP, and an assessment is needed regarding the impact upon the intrinsic value, beauty, open character and landscape character of the Countryside.
- 8.6. The proposal for ancillary units to serve the sports and recreation use of the site is accepted and it is considered that due to the nature of the site it would not cause significant detrimental impacts to the intrinsic value, beauty and character of the open countryside. As such it is considered to be in accordance with Policy DM4 of the SADMP.
- 8.7. The site is a designated open space, sport and recreational facility, Policy DM8 of the SADMP seeks to safeguard open space, sport and recreational facilities and stipulates that permission will not be granted for proposals resulting in the loss of land or buildings in recreational or sporting use except where:
- a) A replacement of an equivalent typology is provided, as defined by the most recent Open Space, Sport and Recreational Facilities Study, in an appropriate location serving the local community; or
- b) It is demonstrated that there is a surplus of recreational land, facilities or open space of the same typology exceeding the needs of the local community; or
- c) The development of a small part of a larger site in recreational use would result in

the enhancement of recreational facilities on the remainder of the site, or on a nearby site serving the same community.

- 8.8. Paragraph 102 of the NPPF 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 recreational provision is needed, which plans should then seek to accommodate.'*
- 8.9. Paragraph 103 of the NPPF states that *'Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
 - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.'*
- 8.10. The proposed buildings would be sited on an existing area of the playing field, between an adult football pitch sited to the east and a smaller mini/youth football pitch to the west. The existing cricket pitch is located to the north east of the proposed development, however there is an existing area of trees and landscaping such that there does not appear to be a clear line of sight between the proposed ancillary buildings and the existing cricket pitch.
- 8.11. A substantive response from Sport England providing objections to the proposal confirmed that the proposed development, and lack of detail provided, would not lead to the enhancement of recreational facilities on the site as proposed.
- 8.12. Sport England have confirmed that the siting would not relate well to the pitches intended to be served. The relationship to the existing cricket pitch would be particularly poor, taking to account that the cricket pitch could not be seen from the proposed ancillary facilities due to the intervening trees and landscaping.
- 8.13. In addition to the above, concerns relating to the lack of information provided, such as the changing room layout and disabled access to the units further support the Sport England objection to the proposal. Sport England did comment that a meeting would be beneficial to discuss the objections with the applicant. Such a meeting was held, and it was confirmed within the meeting that without the additional information the objection would remain. Despite requests, no further information has been submitted by the applicant in the way of amendments to the siting or design of the proposed units.
- 8.14. No evidence has been submitted that the open space/land is surplus to requirement and no equivalent open space is proposed, owing to the lack of information and

poor quality submission of the plans it is not demonstrated that the development would result in equivalent or better provision of the of the recreational facilities. Whilst the proposal is for the temporary siting of the buildings, due to the lack of enhancement through a lack of clear detail and poor siting the proposal is considered contradictory to Policy DM8 of the SADMP and paragraph 103 of the NPPF. The temporary nature of the development would not overcome the conflict.

Design and impact upon the character of the area

- 8.15. Policy DM10(c), (d) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings.
- 8.16. Policy DM4 of the SADMP, seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside. Development in the countryside will be considered sustainable where it does not have a significant adverse effect of the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.17. The proposal seeks to introduce a number of units onto the site in conjunction to the sport and recreation use on site. The proposed siting is located away from public vantage points and is screened by a section of existing trees and landscaping as such it is considered that the proposal would have limited impacts on the character of the area and countryside on the proviso that only temporary permission is being sought. Notwithstanding this, the design is not judged to be of sufficient quality to be judged acceptable on a permanent basis, nonetheless on the basis of the temporary consent the development is in accordance with Policy DM4 and Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.18. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.19. The proposal is for a number of temporary units located within the site. The units are not located in close proximity to any neighbouring residential units and therefore it is accepted that the proposal would not have any detrimental impacts on residential amenity in terms of neighbouring amenity. As such it is considered in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.20. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.21. Following a consultation with Leicestershire County Council Highways, no objections were received and it was considered that due to the nature of the proposal and the lack of changes to the number of trips to and from the site from this proposal, that there would be no detrimental impact upon Highway safety or vehicular parking.

- 8.22. Overall, the proposal is considered in general accordance with Policies DM17 and DM18.
- 8.23. It is noted that alterations may have been made to the site access, through the installation of new gates and potential re-surfacing of access tracks. These components are not included within this application and would be considered by the planning enforcement team separately.

Preventing pollution and flooding

- 8.24. Policy DM7 seeks to ensure that adverse impacts from pollution and flooding will be prevented by ensuring that development proposals demonstrate that it will not adversely impact the water quality, ecological value or drainage function of water bodies in the borough, and that development does not create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 8.25. The applicant is located partially within Flood Zone 3 adjacent to an ordinary watercourse, being an unnamed tributary of the Rothley Brook, which is itself a statutory main river. The EA have reviewed the detailed hydraulic model flood extents of the Rothley Brook and can advise that the application site is not directly impacted during the design flood event from this source. However, the applicant has not adequately demonstrated that they have assessed the impact of the flooding from the unnamed tributary adjoining the application site.
- 8.26. The applicant has submitted a flood risk assessment as part of the proposal however following a consultation to the Environment Agency (EA), it has been confirmed that the assessment is considered insufficient. The FRA relates to land outside the application site, the applicant has therefore not fully assessed the risk of flooding from all sources. In particular, the FRA fails to:
- Adequately demonstrate that the risk of flooding from the adjacent unnamed tributary of the Rothley Brook has been assessed.
 - Consider how people will be kept safe from the flood hazards identified – please provide a finished floor level for the proposed development, it is not clear what height (in mAOD) 0.3m above ground level is.
 - Detail evacuation / access / egress route during a design flood event. Whilst we are not overly concerned by the ability of users to evacuate safely, this should be included for an FRA to be compliant with planning policy.
 - The proposals may require floodplain compensation, unless it can be demonstrated that the proposals are outside of the 1 in 100 year flood extents of the unnamed tributary of the Rothley Brook. The applicant has advised that the displacement is negligible, but without any flood depths or heights, we are unable to provide a view on this.
- 8.27. The EA confirmed that in the absence of a sufficient flood risk assessment (FRA) that planning permission should be refused. Alongside the requirement for a FRA and risk from flooding, the EA objects to the proposed development as submitted because no foul drainage assessment and no assessment of the risks to the water environment has been provided by the applicant. The application form states that the method of disposal of foul drainage is "unknown". In these circumstances the planning practice guidance (PPG) (ref ID 34-020-20140306) advises that applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment. In this instance no such information has been submitted.

- The application does not, therefore, provide a sufficient basis for an assessment to be made of the risks of pollution of the water environment arising from the proposed development. In particular, the submitted application fails to demonstrate that the proposed foul drainage system will be designed and sited such that
 1. it is not prejudicial to the health of any person
 2. it will not contaminate any watercourse, underground water or water supply
 3. there is adequate means of access for emptying work and future maintenance, including future replacement of any drainage field
 4. any septic tank, holding tank or cesspool is of adequate capacity and is appropriately designed

8.28. It was therefore recommended that planning permission should be refused on this basis.

8.29. It was outlined via email to the applicant on 25th September 2023 that further information was required based upon the assessment made by the EA, however such information was not provided.

8.30. As such it is considered that due to the lack of information that the proposal is not in accordance with Policy DM7 of the SADMP.

10. Equality implications

10.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

10.3 There are no known equality implications arising directly from this development.

10.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

11. Recommendation

11.1 **Refuse planning permission for the following reasons**

12. Reasons

13. Insufficient/lack of information in the form of a sufficient flood risk assessment and a foul drainage assessment has not been submitted to substantiate that the proposal would not impact flood risk and pollution. Such a proposal would thus be contrary to Policy DM7 of the adopted Site Allocations and Development Management Policies DPD 2016 and to guidance in the NPPF.
14. Insufficient/lack of information in the form of detailed plans provided the specifications required by Sport England to ensure that the proposed development of the units would be sufficient in safeguarding users and enhancing the recreational facilities on the site. In addition, the proposed units would not enhance the recreational facilities for the site in terms of both football and cricket usage due to their design, proposed siting and location. As such it is considered that the proposal is contrary to Policy DM8 of the adopted Site Allocations and Development Management Policies DPD 2016 and to paragraphs 102 and 103 of the NPPF.