

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

<b>Committee:</b>	Planning
<b>Date:</b>	21 July 2020
<b>Site Location:</b>	The Pavilion Cold Pool Lane Badgeworth Cheltenham Gloucestershire GL51 6LA
<b>Application No:</b>	20/00453/FUL
<b>Ward:</b>	Badgeworth
<b>Parish:</b>	Badgeworth
<b>Proposal:</b>	Erection of ball stop fencing, car park safety fencing and a storage container.
<b>Report by:</b>	Dawn Lloyd
<b>Appendices:</b>	Site location plan Block Plan Post and rail fencing Storage Container Elevations and Landscaping Fence and Netting Elevations Drainage Plan
<b>Recommendation:</b>	Permit

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The site is an existing sports ground/playing field with a pavilion building as a changing facility with access to the north on to Cold Pool Lane. The site lies within the Green Belt.
- 1.2. The application has been brought for planning committee determination as this site is land is owned by Tewkesbury Borough Council.
- 1.3. The proposal is for the siting of a storage container, green in colour measuring 6 metres in length, 2.44 metres in width and 2.59 metres in height for the storage of equipment; a stop ball fence and netting 7 metres high towards the southern boundary and a post and rail fence 1.2 m above ground to the banks of the watercourse adjacent to the carpark area to the north east of the site.

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
07/01666/FUL	Change of use of land from equestrian purposes to playing field/sports pitches and outdoor recreational public open space, erection of a replacement changing room/pavilion building and ancillary parking provision.	PER	21.01.2008
10/00676/FUL	Change of use of land from equestrian purpose to playing field/sports pitches and outdoor recreational public open space, erection of a replacement 2001changing room/pavilion building and ancillary parking provision (Extension of Planning Permission ref: 07/01666/FUL)	PER	23.09.2010

## 3.0 RELEVANT POLICY

- 3.1. The following planning guidance and policies are relevant to the consideration of this application:

### **National guidance**

- 3.2. National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

### **Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017**

- 3.3. Policy SD4 (Design Requirements)
- 3.4. Policy SD5 (Green Belt)
- 3.5. Policy SD6 (Landscape)
- 3.6. Policy SD14 (Health and Environmental Quality)
- 3.7. Policy IINF 1 (Transport Network)
- 3.8. Policy INF2 (Flood Risk Management)

### **Tewkesbury Borough Local Plan to 2011 - March 2006 (TBLP)**

- 3.9. Policies: RCN2 Provision of Sports facilities

### **Tewkesbury Borough Plan 2011-2031 – Pre-Submission Version (October 2019) RCN2 New Sports and Recreational Facilities**

- 3.10. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.11. The First Protocol, Article 1 (Protection of Property)

## **4.0 CONSULTATIONS**

- 4.1. **Badgeworth Parish Council** – Supports the application. Recommends the colour of the fence is green rather than black
- 4.2. **Up Hatherley** – Support the application. The original section 106 obligation placed on the developer to provide this site makes clear that its prime purpose is to be used for playing football and cricket. Without the ball stop fence the section 106 obligation cannot be fulfilled.

### **Publicity and representations**

- 4.3. The application has been publicised through the posting of a site notice for a period of 21 days and/or the neighbour notification scheme. The site notice expires on the 9<sup>th</sup> July 2020 and the planning committee will receive an update on any public representations received.

## **5.0 POLICY CONTEXT**

- 5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 5.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 5.3. The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 5.4. The relevant policies are set out in the appropriate sections of this report.

## **6.0 ANALYSIS**

### **Principle of development**

- 6.1 Para 96 National Planning Policy Framework 2019 (NPPF) considers 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.
- 6.2 Save Local Plan policy RCN2 Provision of Sports facilities. Considers that any new buildings or structures must be ancillary and must not have any adverse impact on the quality of the environment or result in significantly local traffic problems. Any flood lighting must be demonstrated to be strictly in essential and to have minimal environmental impact.
- 6.3 The proposal for the storage container, stop ball fence and additional safety fencing is ancillary to the existing sporting facilities on the site. The proposal would be for the site to be used safely for football matches and coaching without detrimental impact on neighbouring occupiers. The proposal is acceptable in principle subject to other policies of the development plan and National Planning policy Framework.

## **Green Belt**

- 6.4 Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 6.5 Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 6.6 Paragraph 145 goes on to state that a local planning authority should regard the construction of new buildings as inappropriate. Exceptions to this include, with this relevance to this application:
- Appropriate facilities for outdoor sport/recreation so long as they preserve the openness of the Green Belt and do not conflict with the purpose of the Green Belt. This advice is reflected in the JCS (Policy SD5).
- 6.7 The proposed storage container is required for safe and secure storage of equipment and machinery for the football club. The existing building is a changing facility and does not have the required storage capacity. The storage container would be set behind the existing pavilion building with landscaping to provide screening. It is not large in scale and is well related to the existing building and close to the existing boundary fence and hedge. The ball stop fencing is required in connection with the use of the sporting facility to prevent balls leaving the sports grounds and going onto the neighbouring property.
- 6.8 A post and rail fence is also proposed however, the fence does not require planning permission.
- 6.9 On the basis of the above, it is considered that both the storage container and the ball stop netting are 'appropriate facilities' for the purposes of Green Belt policy. A judgement therefore needs to be made as to whether they preserve the openness of the Green Belt.

## **Impact on Openness**

- 6.10 The proposed storage container would be set behind the existing pavilion building and consequently its impact on the openness of the Green Belt would be limited. The proposed ball stop fencing would be located along part of the southern boundary is in close proximity to neighbouring buildings. The proposed fence and netting would be up to 7 metres in height: comprising 3 metres of metal weldmesh panels with 4 metres of netting above (see proposed fence details).
- 6.11 Whilst the existing hedges, buildings and structures south of the boundary would form a backdrop to the netting when viewed from the north, the fence would be higher in places than those hedges and buildings. The netting itself would likely have a fine mesh that would allow light to penetrate and minimise the visibility of the structure. However, due to the existing boundary treatment of high hedging, trees and the proximity of the adjacent buildings the supporting poles would be more apparent from visible vantage points and would, to a limited degree, impact on the openness of the Green Belt in this location. As such, it would constitute inappropriate development. Paragraph 143 of the Frameworks states, "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".

## **Very Special Circumstances**

- 6.12 The site formed part of the 106 Agreement for a community sporting facility for public benefit mainly football and cricket. The Applicant promotes grassroots football and has over 30 teams ranging from children to adults of all abilities. In a supporting statement the Applicant has set out a number of reasons why the proposals are required which they consider demonstrate very special circumstances.

- 6.13 In terms of the ball stop fencing the applicant points out that due to the orientation of the playing pitch and goal position as many as 15 -20 balls a game can overshoot the playing fields and land on the neighbouring livery centre. This, it is argued, is unsustainable and limits the use of the facilities. Furthermore, it also presents a safety risk (to riders and horses) and can cause property damage. Consideration has been given to the erection or temporary netting (that could be removed after each game). However, the time required to erect and dismantled make this impractical. The fencing would therefore allow the club to maximise the use of its facilities with minimal impact on neighbouring properties. The supporting statement states that the fence is supported by the local Football Association.
- 6.14 As set out above, the proposed storage container is required for safe and secure storage of equipment and machinery for the football club as the existing building provides changing facilities and does not have the required storage capacity.
- 6.15 The proposed ball stop netting would provide clear and obvious benefits that would enable the sports club to maximise the use of its existing facilities which benefits public health and well-being. Similarly, the storage container would provide safe and secure storage of equipment and machinery necessary to maintain the facilities. It is considered therefore that the justification proposed are capable of comprising very special circumstances to outweigh the limited visual harm to the openness of the Green Belt. It is necessary to consider whether there are any other harms that would result from the proposed development. This is considered below.

#### **Design and landscape character**

- 6.16 JCS Policy SD4 of the Joint Core Strategy sets out requirements for high quality design while Local Plan and policy SD6 considers that development will seek to protect the landscape character for its own intrinsic beauty and have regard to the local distinctiveness and historic character of the different landscapes.
- 6.17 The site lies to the south of urban development to the north of Grovefield Way and sports grounds represent a soft transition from the urban edge of Cheltenham to the rural countryside to the south.
- 6.18 The design of the storage container is appropriate in terms of its colour, siting, height, scale and mass. The stop ball fence and netting is functional in terms of its design the 3 metre section of wire fence is similar to that used on the northern boundary of the site. Although not a feature typical of the rural landscape, the netting would be lightweight and fairly transparent. The 7 metre high supporting poles of the wire mesh netting are more visually prominent. However, the majority of the fence would be viewed within the context of existing buildings and adjacent the existing boundary hedges and trees and therefore is considered of less than substantial harm. The Parish Council have concerns regarding the colour of the fence/netting on the southern boundary and this can be controlled by condition.

#### **Residential amenity**

- 6.19 Policy SD14 of the JCS requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants. The development should not result in unacceptable levels of air, noise, water, light, soil or odour alone or cumulatively.
- 6.20 It is considered the container and post and rail fence do not have an adverse impact on neighbour amenity. Whilst the proposed netting would not impact on light to the neighbouring property, by virtue of its height and close proximity to the boundary it would appear as a prominent feature when viewed from the livery. However, the netting provides a safety feature to protect adjacent livery from the sporting activities on the site and enables the site fulfils function as a venue for sporting activities for the local community. No neighbour objections have been received and weight has to be attributed to the wider public benefit of the proposal. It is considered the wider public benefit outweighs the minimal impact to the amenity of neighbouring residents.

### **Access and highway safety**

- 6.21 The site has planning permission as a sports field/playing field with existing parking, access, turning and manoeuvring space. In close proximity to the site there is a pedestrian crossing point and pedestrian and cycle route along Cold Pool Lane to the north of the site. Therefore, site has safe and accessible connections to the transport network for all modes of transport and the proposal complies with policy INF1 in this regard.

## **7.0 CONCLUSION AND RECOMMENDATION**

### **Benefits**

- 7.1. The site is underutilised at present and has limited use as a sports field. The proposal would enable the site to be fully utilised as a sports field to the benefit of physical and mental health of local and wider community.
- 7.2. The proposal includes measures to safeguard its users and the adjacent business from the supervised activities on the site.

### **Harms**

- 7.3. There would be a limited impact on openness of the Green Belt from the stop ball net and storage container.

### **Neutral**

- 7.4. The site has safe access and good connectivity to the local transport network from all modes of transport.

### **Conclusion**

- 7.5. It is concluded that the benefits of the proposals identified above clearly outweigh the limited impact on the openness of the Green Belt and other harms and are sufficient to demonstrate very special circumstances. Accordingly, it is recommended that the application be permitted.

## **CONDITIONS:**

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved documents received on 27 May 2020:

- Location plan Drawing Number 1
- Site Plan / Block Plan Drawing Number 2
- Proposed Post and Rail Fence Drawing Number 3
- Proposed Storage Container and Landscaping Drawing Number 6
- Proposed Site of Stop Ball Fence Drawing Number 5
- Drainage Layout Drawing Number S11-408-A001

Received on 1<sup>st</sup> June 2020

- Proposed Stop Ball Fence Elevations Drawing Number 4

Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

3. Prior to it being erected, details of the colour of the shipping container and stop ball fence/netting shall have first been submitted to and approved in writing by the local planning authority. The fencing shall be maintained as such thereafter.

Reason: To minimise the visual impact of the development.

4. Before the first use of the storage container hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:

- i) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
- ii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
- iii) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the proposed development does not have an adverse effect on the character and appearance of the area.

## **INFORMATIVES:**

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.