

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

Committee:	Planning
Date:	20 April 2021
Site Location:	Land At Wainlode Lane Norton Gloucester Gloucestershire
Application No:	21/00285/FUL
Ward:	Severn Vale South
Parish:	Norton
Proposal:	Change of use of land to play area and the installation of retractable stop ball netting with 8m high posts to the existing Rugby pitch.
Report by:	Dawn Lloyd
Appendices:	Site location plan Site Plan Elevations of netting Post and net details Layout of play area
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is within the village of Norton and lies to the south-west of Wainlode Lane and to the north/north-west of the village hall. The application site comprises of the existing playing field and rugby pitch together and a children's play area which has been installed on an undeveloped part of the neighbouring residential development. The play area is within the settlement boundary of the village as identified by the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan and the Pre-Submission Tewkesbury Borough Local Plan.
- 1.2 The site is not located within any designated landscape areas.
- 1.3 The proposal is submitted by the Parish Council for the change of use of land to a children's play area and for the erection of a stop ball netting to part of the boundary of the rugby pitch. The retractable netting would be a total of 120m in length, 60m to both the north west boundary and north east boundaries of the rugby pitch, adjacent to the boundary hedge separating the playing field from the residential development. The steel posts would be 8 m in height, the height of the netting would measure 6.36m and it would be suspended from the top of the posts. The retractable netting would be black mesh of 20mm squares.

- 1.4 The play area land was secured via the s106 agreement attached to the residential development as possible expansion space for Norton School. The Parish Council has entered into a joint use agreement with the County Council for the land, which means that the play area/equipment will be available at all times to the school. It is understood that this is a reciprocal agreement with the Parish Council making land within the boundary of the village hall available to the school.

2.0 RELEVANT PLANNING HISTORY

- 2.1 To the north of the playing field and rugby pitch lies a residential development of 22 houses which were approved under application 16/01172/FUL.

3.0 RELEVANT POLICY

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

National guidance

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

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

SD6 Landscape.

SD4 Design requirements.

SD14 Health and Environmental Quality.

INF4 Social and Community Infrastructure.

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

RCN2 Provision of Sports Facilities.

Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011- 2031 Policies

E2 Landscape protection in open countryside.

Tewkesbury Borough Plan 2011-2031 – Pre-Submission Version (October 2019)

RCN2 New Sports and Recreational Facilities.

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life).

The First Protocol, Article 1 (Protection of Property).

4.0 CONSULTATIONS

Norton Parish Council – No comments received the Parish council is the applicant.

County Highway Authority- No objection.

Full copies of all the consultation responses are available online at

<https://publicaccess.tewkesbury.gov.uk/online-applications/>

5.0 PUBLICITY AND REPRESENTATIONS

5.1 One letter of objection in respect of the proposed play area has been received from a local resident which is summarised as follows:

- Agree the village would benefit from a play area but originally it was planned to be in the large field;
- Parts of the equipment have platforms, causing direct overlooking of residential property;
- The development would cause a noise nuisance and unacceptable interference with personal comfort;
- The development will adversely impact on health issues for a neighbouring resident due to the increase in noise levels causing sensory overload which can be very distressing, increasing levels of anxiety, anger and stress;
- We have a right to enjoy our home peacefully, and siting the play area opposite our property is a breach of Article 8 of the Human Rights Act.

5.2 35 letters of support have been received and no letters of objection.

The main reasons for support are as follows:

- To have a dedicated play space for the children will be wonderful and much needed;
- It will be great for the children and for the local community;
- An excellent resource for children, and especially useful to be able to access it both during school hours and outside of them;
- We are so fortunate to have our own village rugby team which has been running for many years. The team are always courteous of the village and its residents and this is highlighted once again with this addition of a retractable ball net;
- After the year that we have all been through these two aspects of village life are essential for villagers to spend time with others and re-establish connections;
- Really positive addition to the village, we need to encourage young families to the village to help with the long term sustainability of the village;
- The Rugby club is a valuable part of the Norton community, allowing the stop ball netting is an extremely viable option and should be permitted as a resolve.

5.2 The application has been publicised through the posting of a site notice for a period of 21 days.

Full copies of all the representation responses are available online at

<https://publicaccess.tewkesbury.gov.uk/online-applications/>

6.0 POLICY CONTEXT

- 6.1 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.
- 6.2 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. The Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011- 2031 was 'made' on 28 May 2019 and is part of the statutory Development Plan.
- 6.3 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).
- 6.4 The relevant policies are set out in the appropriate sections of this report.

ANALYSIS

7.0 Principle of development

- 7.1 Paragraph 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.
- 7.2 Saved Local Plan policy RCN2 Provision of Sports facilities sets out 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. One of the 'Community objectives' of the NDP is *'Encouraging new and/or additional services and facilities which help to meet identified needs of local people and improve their wellbeing'*.
- 7.3 The proposal for stop ball netting safety fence would be ancillary to the existing sporting facilities on the site. The proposal would enable the site to be used safely for rugby matches and coaching by preventing balls from entering adjoining gardens.
- 7.4 The change of use of the land to a children's play area is supported by Policy RCN2 and the NDP.
- 7.5 Therefore, the proposal is acceptable in principle subject to other policies of the development plan and National Planning Policy Framework.

8.0 Design and Landscape character

- 8.1 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. NDP Policy E2 safeguards certain views, including views westwards from the eastern edge of the application site.
- 8.2 The site lies to the north west of the village hall and school and to the west of Wainlode Lane. The existing playing field and rugby pitch represent a soft transition from the built form of the village to the rural countryside to the west.
- 8.3 There are public rights of way approximately 250 m to the north east of the site and 260 m and south west of the site. The stop ball netting would be visible in part from these distance views but would be read within the context of the existing built form and recreation use. It is considered that the proposal would be less visually prominent in the views of the open countryside and wooden hillside as safeguarded by policy E2 of the NDP.
- 8.4 The retractable stop ball netting and posts are functional in terms of its design and would be erected adjacent to the boundary with residential development. Although not a feature typical of the rural landscape, the netting would be retractable lightweight and fairly transparent, and are not inconsistent with the sporting use of the land. The 8 metre high supporting poles of the wire mesh netting would be more prominent however, they are well spaced at 20 m apart. The majority of the netting would be viewed within the context of residential development and adjacent the existing boundary hedges and trees and therefore is considered of less than substantial harm. The netting would also be only extended between the posts when required.
- 8.5 The children's play is located within the settlement boundary between existing residential development and is screened in part by boundary hedges and trees. The site is considered appropriate within its context.

9.0 Residential amenity

- 9.1 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.
- 9.2 An objection has been received from an occupier of one of the neighbouring properties in Bramble Close setting out that the noise from the school can already be heard and that is some distance away. The proposed play area, being much closer would cause noise disturbance and unacceptable interference with personal comfort. The proposed play equipment would enable overlooking of the neighbour's property. One of the neighbour's family members has health issues and there is concern that noisy environments cause sensory overload and can be distressing for that family member and would interfere with their rights under the Human Rights Act to respect for private and family life; enjoyment of your existing home peacefully; and the protection of health. It is also suggested that the proposal would give rise to a statutory noise nuisance.
- 9.3 The neighbour's comments are noted and there is sympathy with the health issues. Nevertheless, in taking into account the context of the site it is not considered that there would be undue impact to neighbour amenity from the play area. The play area borders the front amenity space and access driveway of the objector's property and there is a 2m high close boarded fence on the common boundary. In terms of background noise, the neighbour's garden already has a boundary with the rugby ground which is well used for matches and training purposes as well as for general recreation.

- 9.4 The neighbour has themselves pointed out that there is existing background noise from the school and although this is much further away than the proposed play area, the neighbour's dwelling is already affected to a large degree by noise and disturbance from those nearby land uses. The play area land was identified in the s106 agreement for the neighbouring development (of which the objector's property is part) to be used in connection with the school. It was always likely therefore that there would be some noise and disturbance arising from the use of that land. It is similarly considered that there would be an acceptable impact on the other properties in Bramble Close and the extended garden of Trovemore to the east.
- 9.5 In terms of overlooking, the play area is located opposite the front of the dwelling which is open to public views from Wainlode Lane. It is not considered that the children's play equipment would give rise to unacceptable overlooking in this context.
- 9.6 Whilst the proposed netting would not impact on light to the neighbouring properties, by virtue of its height and close proximity to the boundary it would appear as a prominent feature. However, the netting provides a safety feature to protect these recently constructed properties from sporting activities and the long-established rugby pitch on the site which benefits the local community as is indicated by the letters of support which have been received. One of the immediate neighbours has also commented that they are grateful for the steps taken to protect their property. Whilst there would be some impacts arising from the netting and posts (albeit the netting would be 'drawn back' when not in use), it is considered that the wider public benefit outweighs the limited impact to the amenity of neighbouring residents in this instance.
- 9.7 Overall, whilst the suggested impacts on the neighbouring property, and interference with article 8 rights are noted, those rights are not absolute and interference may be justified in the public interest, but the concept of proportionality is crucial. In this case, the noise impacts are tempered by the existing surrounding land uses. The rugby club and proposed play area are considered widely in the local community to be valuable assets which should be allowed to flourish. Whilst there would be some noise and disturbance arising from the play area, given the wider public benefits, it is not considered that those impacts justify a refusal of planning permission in this case.

10.0 CONCLUSION AND RECOMMENDATION

- 10.1 The proposed netting provides a pragmatic solution to the potential conflict between the rugby pitch and nearby dwellings. It is concluded that the benefits of the proposed play area outweigh the potential impact on neighbouring residential properties and a minor interference with the rights under article 8 of the Human Rights Act is justified in this case. It is therefore 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 submitted on 2 March 2021:
 - Location Plan Drawing Number AL1/1
 - Proposed siting of netting and elevations Drawing Number AB1/1
 - Site Plan Drawing Number AB1/2
 - Post and Net Details Drawing Number AB1/1 Rev P3

- Play Area Plan received 9th March 2021

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. The retractable netting hereby permitted shall be retracted within 1 hour of the end of the final match on any day and at the end of training on any day.

Reason: In the interests of visual and general amenity.

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.