



meeting **PLANNING COMMITTEE**

date **15 JUNE 2004**

from: **Director of Environment**

agenda item number

**8**

**ASHFIELD DISTRICT COUNCIL 4/2004/0262  
VARIATION OF CONDITION 10 OF PLANNING PERMISSION 4/2003/0513 TO  
CHANGE THE HOURS OF USE OF THE SYNTHETIC MULTI-USE GAMES  
AREA WITH FLOODLIGHTING, ASHFIELD COMPREHENSIVE SCHOOL,  
SUTTON ROAD, KIRKBY-IN-ASHFIELD, NOTTS  
APPLICANT: ASHFIELD COMPREHENSIVE SCHOOL**

### **Purpose of Report**

1. To consider a planning application for the variation of Condition 10 of Planning Permission 4/2003/0513 to increase the hours of use of the floodlit Macadam Multi-Use Games Area (MUGA) at Ashfield Comprehensive School. The application has given rise to various concerns principally relating to increased noise and light impact. The recommendation is to grant planning permission subject to conditions as varied.

### **The Site and Surroundings**

2. The site lies on the western edge of Kirkby-in-Ashfield, within a rural-urban fringe location, bounded to the north and south by residential property along Raymond Close, and Cherry Avenue and Searwood Avenue respectively. The site is bounded to the west by open countryside, with the eastern boundary being formed by Sutton Road. A location plan is attached.
3. The site comprises an open complex, accommodating the main school buildings within the eastern part of the campus. To the west of this, there are extensive playing fields, extending into the open countryside. The main school comprises a CLASP style, two storey building and in recent years, a large single storey building has been added to the east of the main school building.

### **Proposed Development**

4. The application seeks to vary Condition 10 of Planning Permission 4/2003/0513 and increase the hours of use of the Multi-Use Games Area and floodlighting on weekday evenings and on Sundays.

5. The present hours of use are 0830hrs to 2030hrs Monday to Friday and 0900hrs to 1800hrs on Saturday and at no times on Sunday and Public and Bank Holidays.
6. The proposal seeks to increase the hours of operation of the floodlit MUGA from 0830hrs to 2130hrs Monday to Friday and 0900hrs to 1800hrs on Sundays.

### **Site History**

7. Members will recall that the original planning application for the installation of a floodlit Multi-Use Games Area (MUGA) at Ashfield School was reported to the 20 January 2004 meeting of this Committee, where a decision was deferred until a site visit had been undertaken by Members. The purpose of this site visit was to determine the possibility of integrating the MUGA with the athletics track thereby reducing the need for two separate floodlighting schemes on the same playing field. The outcome of the site visit was then reported back to the meeting on 17 February 2004, and the recommendation was to grant planning permission for the floodlit MUGA subject to conditions, including in relation to restrictions on hours of use.
8. Permission has recently been granted by Ashfield District Council for an athletics track and twenty 10m high pole mounted floodlights. The times of use on this facility throughout the week, including weekends (Monday to Sunday inclusive) are 8.30am to 8.30pm, and whilst the two schemes could not be integrated into a single scheme, it was considered appropriate to have a level of consistency in the times of use of both facilities.
9. The hours of use of the floodlit MUGA on weekdays was set at 8.30am to 8.30pm Mondays to Fridays. This was so that the training sessions on the athletics track and the football use on the MUGA would cease at the same time on weekday evenings thereby reducing any detrimental impact from light and noise disturbance to adjacent residents. In addition, an all day Saturday use was given for the MUGA, from 9.00am to 6.00pm, to cater for weekend use.

### **Planning Policies**

10. The Nottinghamshire Structure Plan Review (November 1996) contains no policies that are relevant to the proposal. Policy ST1 of the Ashfield Local Plan Review (Adopted November 2002) (ALP) supports new development provided that there is no significant adverse effect upon the amenity, character or quality of the environment and that it does not conflict with an adjoining or nearby land use. In addition, Policy ST2 supports development within the urban area.
11. Policy RC3 of the Ashfield Local Plan Review (Adopted November 2002) supports development which would lead to the loss of formal open space, where:
  - (i) it is ancillary to the recreational use, or
  - (ii) it would assist in the retention and enhancement of the recreational use of the site, or

- (iii) adequate replacement provision of new formal open space is provided in the locality, or
- (iv) it is proposed to make a significant improvement to the overall quality of recreation provision in the locality, or
- (v) in the case of school playing fields the development is required for educational purposes.

### **Consultations**

- 12. **Ashfield District Council** supports the extension of hours only on a Sunday, but does not agree to the extension of hours up to 9.30pm Monday to Friday evenings.
- 13. **The Crime Prevention and Architectural Liaison Officer** has made no comments.

### **Publicity**

- 14. The application has been advertised by means of two statutory site notices and letters sent to the occupiers of Nos. 34 – 84 (evens) Cherry Avenue and Nos. 1 – 16 (inclusive) Searwood Avenue, No. 26 Raymond Close, Nos. 5, 26 and 30 Field Place and No. 181 Sutton Road. Eight letters of representation have been received, one of which is a bundle of pro forma letters of opposition from fifty-two households. The letters object to the proposal on the following grounds:
  - a. increase in light pollution late into the evenings;
  - b. increase in noise pollution from outside organisations late into the evenings, particularly for those with young children and on Sundays, which is the only relatively peaceful day;
  - c. loss of privacy and quality of life;
  - d. detrimental to adjacent occupiers' health and well-being;
  - e. increased traffic congestion;
  - f. increase in anti-social behaviour;
  - g. extension of hours is not for educational purposes, but is for commercial renting;
  - h. night sky to the west of Kirkby-in-Ashfield is the only part of the area with low levels of light pollution;
  - i. detrimental impact of the combined usage of the athletics track and MUGA on local residents;
  - j. driven by financial reasons;

- k. acceptance by the residents of the original planning permission and in particular condition 10 stipulating the hours of use, as a reasonable way of maintaining local amenity, whilst allowing the development to go ahead.

### **Highway Observations**

- 15. There are no highway objections.

### **Observations**

- 16. The proposed development would be funded by the Football Foundation and would enhance the delivery of the sports curriculum at Ashfield School, with improved football facilities. It would enable the provision of extra curricular activities for pupils together with the development of sporting opportunities for the local community. This would increase the sporting proficiency of the school and foster an enhanced community use.
- 17. The original planning application did not expressly seek particular hours of use, either in relation to weekday evenings or Sundays, but in discussions between representatives of the school and local residents, the school had accepted an evening closure time of 8.30pm and no Sunday use. However, in accepting these hours, the school subsequently made officers of this Authority aware of a potential difficulty over funding, in the light of the reduced hours. Under the hours of use approved under Condition 10 of the previous permission, the project would not be eligible for Football Foundation funding, as the potential for community usage is too narrow. This is what has prompted the present application.
- 18. Further to submission of the application, a meeting was held between representatives of the school, local residents and officers of the Authority. At that meeting, it became apparent that the funding bid from the school to the Football Foundation had been made on the basis of extended hours of use, including evening use on Saturdays and Sundays, resulting in a total of 44 hours of community use.
- 19. Under its Community 'Grass Roots' Programme, the Football Foundation would provide £194,000 towards the project and would normally expect opportunities for community use to be maximised, involving use up until 10.00pm seven days per week. Officers have discussed matters with the school and met with representatives of the Football Foundation, in an attempt to negotiate hours of use which might be acceptable to the County Council as Planning Authority. They have confirmed that a condition of eligibility for funding is that community use is maximised. However, in the case of Ashfield School, they have agreed to minimum operating hours up to 9.00pm on weekday evenings and 6.00pm on Saturdays and Sundays, with a start time of 10.00am on Sundays, to secure the funding. This would allow the school to provide some 38 hours of community use thereby maximising its revenue from the facility.
- 20. This is not simply a matter of upholding the principle of encouraging community use. A substantial revenue stream from hiring out facilities at times of peak

demand is necessary to cater, not only for the day to day running of the MUGA, but also in order to provide a “sinking fund” for the long-term maintenance and eventual refurbishment of the synthetic pitch in some ten years’ time.

21. In the case of synthetic pitches such as the MUGA at Ashfield School, the viability of the whole project rests on the ability to secure an income that can be used to maintain the pitch, provide a “sinking fund” and fund development work. Insufficient use produces a lack of income leading to poor maintenance of the facility and ultimately no provision for essential replacement of playing surfaces etc.
22. In addition, loss of income limits the project’s ability to undertake social inclusion projects. In the case of Ashfield School, such projects would include working with the local police to offer sessions for disadvantaged and underprivileged youngsters. The provision of the synthetic all weather pitch would allow such projects to be expanded.
23. It is recognised that the residents have objected to any increase in hours of use either in the evenings or on Sundays and they believe that the previously approved hours of use are a reasonable compromise in terms of allowing the development to go ahead, whilst at the same time maintaining a level of residential amenity.
24. It is noted that the proposed extension of hours has the potential to increase moderate impacts of light, noise and visual disturbance associated with the MUGA later into the evenings and on Sundays, for adjacent residents, particularly those living in Cherry Avenue and to a lesser extent Searwood Avenue. Sunday is a relatively quiet day for residents who value it as an important respite from the activities of the school throughout the rest of the week (Monday to Saturday inclusive).
25. Hence, there is the potential for the extended hours of use to impact on the quality of life of residents although, bearing in mind the criteria set out in Policy ST1 of the ALP, it is not considered that the impact would be significantly adverse. To that extent, it is considered that there is no conflict with Local Plan policy. In order, however, to mitigate this to some extent, it is considered that the evening extension being sought to 9.30pm should be limited to 9.00pm. In addition, and following on from negotiations between the school and the Football Foundation, the use on Sundays would be required to start at 10.00am and cease at 6.00pm.
26. It is considered, therefore, that an extension of evening use, by half an hour, to 9.00pm, would, in the circumstance, neither be significant nor unreasonable. Introducing Sunday use of the facility would represent a more significant change but it is noted that Ashfield District Council do not object to this element of the proposed variation. No use of the facility would be allowed on Bank and Public Holidays, so allowing the residents to enjoy their local amenity uninterrupted at these key times. This will go some way to mitigating any negative impact the proposed development may have on the local amenity of adjacent residents. However, with the exception of late afternoons in Winter, disturbance from

floodlighting should not occur in connection with Sunday use. It should be noted that the hours of use negotiated with the Football Foundation are the minimum hours of use that would qualify for funding. Should more reduced hours of use be sought, the grant offer would be withdrawn.

27. Finally, Ashfield School has proposed not to use the southern sector of the playing field to the immediate south of the MUGA for sporting activities, thereby creating a buffer between properties within Cherry Avenue and the use of the playing field for sport.

## Conclusions

28. It is acknowledged that extending the operating hours later into the evening and on Sundays has the potential to impact detrimentally on the amenity of adjacent residents due to a moderate increase in light, noise and visual intrusion and disturbance associated with the community using the floodlit Multi-Use Games Area.
29. It has been important to establish the minimum number of hours of use required to secure the funding, and hence guarantee the viability of the facility for the benefit of both the school and the wider community. The meeting that was held with the Football Foundation also dealt with wider issues regarding the criteria applied to funding sports facilities and the extent to which planning issues are taken into account, in relation to the choice of sites. It is encouraging to note that the representatives of the Football Foundation did recognise that sites have to be acceptable in terms of the planning issues and that, normally, they would wish to see evidence of a planning permission or of in-principle support for the proposal from the relevant planning authority before accepting a bid. The representatives acknowledged that, procedurally, the bid from Ashfield School had departed from this norm.
30. Officers have already raised the issue of the acceptability of proposals, in planning terms, with colleagues in Education Department responsible for pursuing MUGA schemes. The County Council is fully committed as a corporate body to maximising community use of sports facilities through initiatives such as the Junior Sports Leader and Community Sports Leader awards, which encourages young people to become involved in leadership through sport. This initiative is promoted in Nottinghamshire schools and fits in with the corporate objective of encouraging people to take responsibility for contributing to the life of their community. The Education Department advises that sport can make a significant contribution to our economy, environment and society as a whole and is important in making Nottinghamshire a better place to live. However, facilities can only be erected and used where it is acceptable, in planning terms, to do so.
31. Officers intend to have meetings with other funding agencies, notably the New Opportunities Fund (NOF), in order to understand the criteria they apply to accepting bids for funding and the extent to which these take account of planning considerations. Following these meetings, the intention is to prepare a Protocol, which will be agreed with colleagues in Education Department, for dealing with applications for facilities such as this in the future, which will be reported to this Committee later in the year. This should address the concerns raised generally at the last meeting about floodlit sports facilities at schools. In conjunction with the process of considering such a report, opportunity will be taken for Members to visit a typical facility to see the issues for themselves.
32. Regarding the present application, a balance needs to be struck between the further impact on the amenity of nearby residents and the opportunity provided by the funding package from the Football Foundation, to deliver improved sports facilities for the school and an important resource for the local community. Overall, it is important that the school can deliver high quality sports provision to

its pupils, whilst also fulfilling its community role. On balance, the recommendation has to be to support the proposal.

### **Statutory and Policy Implications**

33. This report has been compiled after consideration of implications in respect of Finance, Equal Opportunities, Personnel, Crime and Disorder and Users. Where such implications are material, they have been brought out in the text of the report. Members' attention is, however, drawn to the specifics as follows:-

### **Human Rights Act Implications**

34. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are affected. The proposal has the potential to increase moderate impacts of light, noise and visual intrusion and disturbance for local residents, particularly those within Cherry Avenue and to a lesser extent Searwood Avenue. However, these considerations need to be balanced against the benefit that the proposal would bring to the school and the wider community.

### **RECOMMENDATION**

35. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992, subject to the varied conditions set out in Appendix 2. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

### **REASON FOR DECISION**

36. The proposal to vary conditions has the potential for further detrimental impact on the amenity of residents living adjacent to the school grounds. However, this is considered to be outweighed by the benefits to the school and local community, which may be lost if the proposed extended hours are not accepted. There is no conflict with the Development Plan.

PETER WEBSTER  
Director of Environment

### **Director of Resources' Financial Comments**

As this report deals with the planning application there are no direct financial implications. [DJK 4.6.04]

### **Head of Democratic & Legal Services' Comments**

Committee have power to decide the Recommendation. [SHB.2.6.04]





## **Background Papers Available for Inspection**

1. A bundle of 52 signed pro forma letters dated 24.03.04.
2. Letter from Mr & Mrs Kirk, 21 Raymond Close, Kirkby-in-Ashfield, Nottinghamshire dated 29.03.04.
3. Letter from Mr Greenaway, 60 Cherry Avenue, Kirkby-in-Ashfield, Nottinghamshire received 30.03.04.
4. Letter from Mr & Mrs R. Lynk, Windyridge, 12 Searwood Avenue, Kirkby-in-Ashfield, Nottinghamshire dated 30.03.04.
5. Letter from Mr O'Dodd, 30 Field Place, Kirkby-in-Ashfield, Nottinghamshire dated 31.03.04.
6. Letter from Mr J.N. Shannon, 25 Raymond Close, Kirkby-in-Ashfield, Nottinghamshire dated 30.04.04.
7. Letter from Mr & Mrs K. Shirley, 14 Searwood Avenue, Kirkby-in-Ashfield, Nottinghamshire dated 04.04.04.
8. Letter from Mr R. Radford, 181 Sutton Road, Kirby-in-Ashfield, Nottinghamshire received 07.04.04.

## **Electoral Division(s) Affected**

Kirkby- in-Ashfield North

EPD.DW/EP4538

3 June 2004

**Please note. Copies of the plan referred to in this report may be obtained from: John Sheffield, Environment, Trent Bridge House, Fox Road, West Bridgford, Nottingham NG2 6BJ, tel 0115 977 4499, email [john.sheffield@nottsc.gov.uk](mailto:john.sheffield@nottsc.gov.uk) or from Peter Barker at the same address, tel 0115 977 4416, email [peter.barker@nottsc.gov.uk](mailto:peter.barker@nottsc.gov.uk).**

**RELEVANT PLANNING POLICIES**

**Ashfield Local Plan Review (Adopted November 2002)**

**Policy ST1**

DEVELOPMENT WILL BE PERMITTED WHERE:

- a) IT WILL NOT CONFLICT WITH OTHER POLICIES IN THIS LOCAL PLAN;
- b) IT WILL NOT ADVERSELY AFFECT THE CHARACTER, QUALITY, AMENITY OR SAFETY OF THE ENVIRONMENT;
- c) IT WILL NOT ADVERSELY AFFECT HIGHWAY SAFETY, OR THE CAPACITY OF THE TRANSPORT SYSTEM;
- d) IT WILL NOT PREJUDICE THE COMPREHENSIVE DEVELOPMENT OF AN AREA;
- e) IT WILL NOT CONFLICT WITH AN ADJOINING OR NEARBY LAND USE.

**Policy ST2**

DEVELOPMENT WILL BE CONCENTRATED WITHIN THE MAIN URBAN AREAS OF HUCKNALL, KIRKBY IN ASHFIELD AND SUTTON IN ASHFIELD AS SHOWN ON THE PROPOSALS MAP.

**Policy RC3**

DEVELOPMENT WHICH WOULD LEAD TO THE LOSS OF FORMAL OPEN SPACE WILL ONLY BE PERMITTED WHERE:

- a) IT IS ANCILLARY TO THE RECREATIONAL USE, OR
- b) IT WOULD ASSIST IN THE RETENTION AND ENHANCEMENT OF THE RECREATIONAL USE OF THE SITE, OR
- c) ADEQUATE REPLACEMENT PROVISION OF NEW FORMAL OPEN SPACE IS PROVIDED IN THE LOCALITY, OR
- d) IT IS PROPOSED TO MAKE A SIGNIFICANT IMPROVEMENT TO THE OVERALL QUALITY OF RECREATION PROVISION IN THE LOCALITY, OR
- e) IN THE CASE OF SCHOOL PLAYING FIELDS THE DEVELOPMENT IS REQUIRED FOR EDUCATIONAL PURPOSES.

A PLANNING CONDITION WILL BE IMPOSED OR PLANNING OBLIGATION NEGOTIATED, AS APPROPRIATE, TO SECURE OFF SITE PROVISION OF FORMAL OPEN SPACE OR OTHER FACILITIES.

### SUGGESTED PLANNING CONDITIONS

1. The development hereby permitted shall be begun within 5 years from the date of this permission.
2. Unless otherwise agreed in writing by the County Planning Authority (CPA) the development hereby permitted shall be carried out in accordance with the details shown on the approved Plan Drawing No. CL/S/03/14904/03, as received by the CPA on the 6<sup>th</sup> October 2003 and Drawing No. CB/001 and Drawing No. CB/002, as received by the CPA on the 17<sup>th</sup> October 2003.
3. Prior to the commencement of the development hereby permitted, measures shall be taken for the protection of all trees and hedges from damage during the course of the development before any equipment, machinery or materials are brought onto the site for the purpose of the development. The means of protection shall include measures to prevent disturbance or reduction in soil levels within the area of the root spread of the hedgerow; and the adequate fencing off of all trees. The means of protection shall be implemented and retained on site until all equipment and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected in accordance with this condition and the ground levels within these areas shall not be altered nor shall any excavation be made without the prior written approval of the CPA.
4. Any trees or shrubs, which become damaged during the course of the development shall be replaced in the first available planting season with the same specimens to those originally planted; the size of these trees shall be at least 14-16cm in girth and the shrubs 60-90cm in height.
5. Prior to the commencement of the development hereby permitted, a scheme for the landscaping of the area immediately adjacent to the fencing along the southern boundary with residences in Cherry Avenue shall be submitted to the CPA for its written approval. Such a scheme shall include details of planting, seeding, turfing and a maintenance schedule. The scheme shall include a row of standard trees parallel to the site boundary and the size of these trees shall be at least 8-10cm in girth at the time of planting.
6. All planting or seeding shall be carried out in accordance with the details approved under Condition 5 in the first available planting and sowing seasons following approval of details pursuant to Condition 5. The planting scheme shall be maintained in accordance with the approved maintenance schedule and good arboricultural practice for a period of five years following its implementation and any plants or trees which die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with similar species to those originally planted.

7. Prior to the commencement of the development hereby permitted, details of the proposed steel mesh rebound board shall be submitted to the CPA for its written approval. The development shall thereafter be carried out in accordance with the approved details.
8. Except with the prior written agreement of the CPA no construction work shall be carried out or plant operated other than between the following hours: 0730hrs to 1730hrs Monday to Friday, 0800hrs to 1330hrs on Saturday and at no times on Sunday, Bank or Public Holidays.
9. The floodlights shall not have a greater illuminance level than 200 lux and the floodlights shall be positioned, directed and angled downwards to avoid glare and dazzle to neighbouring residents such that this can be verified on site by the CPA within three months of the date of the commencement of the use of these floodlights, the date of which shall be notified to the CPA within 7 days.
10. Except with the prior written agreement of the CPA the Multi-Use Games Area and the floodlights shall only be used between the hours of 0830hrs to 2100hrs Monday to Friday and 0900hrs to 1800hrs on Saturday and 1000hrs to 1800hrs on Sunday and at no times on Bank or Public Holidays.
11. Except with the prior written agreement of the CPA no organised sporting activities shall take place beyond the southern most point of the Multi-Use Games Area within the southern sector of the playing field along a line running parallel to and up to the end of properties within Cherry Avenue.

#### Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt.
- 3-6. To ensure a satisfactory visual appearance for the development and to accord with Policy ST1 of the Ashfield District Local Plan.
- 7-11. To protect residential amenity and to accord with Policy ST1 of the Ashfield District Local Plan.

#### Notes to Applicant

The applicant's attention is drawn to the advice from The Crime Prevention and Architectural Liaison Officer and Transco.

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