

**Site Address: Proposed Drayton  
Playgroup, North Oxfordshire Academy,  
Drayton Road, Banbury**

**14/00080/F**

**Ward:** Banbury Hardwick

**District Councillors:** John Donaldson, Tony Ilott and  
Nicholas Turner

**Case Officer:** Rebekah Morgan

**Recommendation:** Approval subject to Sport  
England withdrawing their objection.

**Applicant:** United Learning Trust

**Application Description:** Single storey pre-school building

**Committee Referral:** Member Request – Cllr Turner

**Committee Date:** 24<sup>th</sup> April 2014

**1. Site Description and Proposed Development**

- 1.1 The application site forms part of a large secondary school site located on the northwest side of Banbury. The proposed development would be situated to the north of the main school buildings and to the west of properties fronting onto Ludlow Drive and Warkworth Close. It would be sited on land which is presently part of a larger playing field within the school site.
- 1.2 The application seeks consent for a single storey building to provide nursery provision for 0-5 year olds. The building would measure approximately 14m x 22.5m with split apex roof with a maximum height of 5.2m. The proposal includes a secure outside space measuring approximately 32m x 34m.

**2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 6th March 2014.

11 letters have been received. The following issues were raised:

- Traffic and highway issues
- Vehicular access off the Warwick Road not suitable
- Loss of playing fields
- Overdevelopment of the site
- Sets a precedent for future development on the playing fields
- Noise for longer periods of the day and during school holidays
- Current sport activity takes place in the middle of the field away from residential properties
- Noise and disruption from construction traffic

**3. Consultations**

- 3.1 Banbury Town Council: No objections

**Cherwell District Council Consultees**

- 3.2 Ecology Officer: No comments to make on this application

- 3.3 Environmental Protection Officer: No objections

**Oxfordshire County Council Consultees**

- 3.4 Highways Liaison Officer: No objections subject to conditions. Full comments set out

below:

The proposal is for the erection of a new building to replace an existing nursery and pre-school facility at North Oxfordshire Academy (NOA). The new building will be on a different part of the NOA site and will use a different, but existing, vehicle access on Ludlow Drive.

The Travel Plan submitted with the planning application presents the results of a travel survey of users and staff at the existing facility. The survey results establish a car mode share of 8% and a walk mode share of 87%, and are used to project an increase of five vehicles to the North Oxfordshire Academy site as a result of the new pre-school building.

The mode shares reported by the survey are extremely favourable and it is rare to see such a low car mode share associated with such a development. Reference to the national standard trip generation database TRICS reveals that a nursery of this size could be expected to generate between 20 and 30 vehicle movements in an AM peak hour.

On site observations reveal that the Ludlow Road access to NOA already functions as a significant feature of the Academy's travel arrangements. The car park shown within the red line on the Site Location Plan (Drawing No.001) is used for the drop off and collection of students, and approximately 25 cars were observed using this facility at the end of the school day with a further five using Ludlow Drive as a pick-up / drop-off area. This represents some 60 existing vehicle movements at the Ludlow Road access at the beginning and end of the NOA day. In addition, Ludlow Drive acts as a pedestrian access to NOA, with several hundred students using it on foot to enter and exit the academy.

The introduction of an enlarged Drayton Playgroup to this part of the NOA site will intensify the use of its already busy Ludlow Road access, and put pressure on the existing drop-off / pick-up car park. Specifically, the car park has 22 spaces and already accommodates some 50 vehicle movements at peak NOA times, and observations show that this is close to capacity. The introduction of another 20 to 30 vehicle movements in an AM peak hour, some of which will be generated by nursery staff and will therefore represent cars parked all day, will apply further pressure to this facility. The resultant over capacity is likely to push further drop-off / pick up activity onto Ludlow Road and Warkworth Close.

This level of activity will need to be carefully planned for and actively managed in order to preserve safety and prevent adverse impact on the surrounding roads. Specifically, both a Travel Plan and a car park management plan will be required. In addition the construction traffic management plan will need to be revised and enhanced.

#### *Travel Plan Requirements*

The travel plan submitted as part of this application does not constitute an adequate or executable travel plan since it lacks a considerable amount of the required detail set out in OCC's School Travel Plan Guidance. The plan will need to be extensively revised in consideration of these guidelines. In particular, the plan will need to include executable and measurable objectives, targets and actions, and will need to be informed by a more detailed survey of existing users of the Drayton Pre-School which is executed using a robust and transparent methodology.

Given that the Drayton Pre-School already operates at the NOA site, there is no reason why an adequate and executable travel plan cannot be prepared for the new expanded facility prior to its occupation and based on existing activity. This plan should be implemented from the first day of occupation of the new facility and updated six months after occupation based on a new survey of travel activity.

The travel plan submitted as part of this application undertakes that "...Drayton Preschool and Playgroup will coordinate their travel plan with North Oxfordshire Academy...". This coordination would need to be commenced as part of the preparation of the travel plan for the new facility and include for the harmonisation of objectives, targets and actions with the NOA travel plan. In this connection it is noted that the

existing travel plan for the whole site was produced in March 2006 and there is no evidence of it having ever been executed, monitored or updated. This is a substantial deficiency, and the travel planning requirements for the preschool provide an opportunity for NOA to correct it.

#### *Car Park Management Plan*

The car park management plan will need to address all car parking areas at the NOA site.

It will need to set out the different categories of user that will be permitted to use the NOA car parks and how this usage will be monitored and controlled. The plan will need to be based on a detailed quantification of the likely number of users in each category and their duration of stay reconciled with the number of spaces that are available at each car parking area. The plan will need to provide for wider than standard car parking spaces for ease of loading and unloading buggies and car seats, and for the provision of School Keep Clear markings on Ludlow Road to discourage obstructive parking on approach to the site.

#### *Construction Traffic Management Plan*

The Construction Phase Traffic Management Plan submitted as part of the planning application will need to be revised to provide further detail. In particular the plan will need to: identify sequential construction phases and the daily number and type of vehicles that can be expected to access the site for each; identify construction traffic routes to and from the site; present a layout plan of the construction site showing the various provisions to include parking, storage, offices and welfare, hard standing and wheel wash, provisions for the segregation of construction activities and existing uses; demonstrate how any displaced uses will be re-provided elsewhere.

#### Recommendation

No objection subject to the conditions.

- 3.5 Archaeologist: No comments received

#### **Other Consultees**

- 3.6 Thames Water: No objections

- 3.7 Sport England: Objects to loss of playing field. Full comments set out below:

It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184), in that it is on land that has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2 ha or more, or that it is on land that is allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement.

Sport England has therefore considered the application in the light of its playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches. The Policy states that: "Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the specific circumstances applies."

"Reason: Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities.

Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.”

The application proposes the erection of a single-storey building, within the curtilage of North Oxfordshire Academy, for use by Drayton Pre-school and Playgroup. The proposed building and related outdoor play area would be sited on the existing playing field to the north of the Academy buildings. Aerial photographs of the site show that this part of the playing field has previously accommodated sports pitches. Paragraph 3.4 of the Design and Access Statement accompanying the application states:

“The site of the proposed building does slightly encroach on an existing Rugby pitch. However, the five year plan for North Oxfordshire Academy includes extensive expansion and renovation of the existing sporting facilities. In the interim the Rugby pitch will be relocated on site, to be replaced in the long term with a 3G all-weather pitch. Therefore, the construction of the proposed new building will have no impact on the overall provision of sporting facilities at North Oxfordshire Academy.”

The application does not elaborate on the “expansion” or “renovation” of the sporting facilities in the context of the five year plan. Nor does it contain any plan to show where the rugby pitch is to be relocated on the site and the effect that this might have on the existing pitch layout. Nor does the application include any plan to show the location of a new ‘3G’ artificial grass pitch, or provide any commitment to its construction. Therefore, it does not automatically follow that “...the construction of the proposed new building will have no impact on the overall provision of sporting facilities at North Oxfordshire Academy”.

In light of the above, Sport England objects to the proposal because no evidence has been provided to demonstrate that it fulfils the circumstances described in any of the exceptions in Sport England’s playing fields policy. At the same time, no evidence been provided to demonstrate that the proposal accords with paragraph 74 of the National Planning Policy Framework.

Should your Council be minded to grant planning permission for the development then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, and the DCLG letter of 10 March 2011, the application should be referred to the National Planning Casework Unit.

In order for Sport England to consider withdrawing its objection, it will be necessary for the applicant to come forward with an equivalent area of land to replace the playingfield that will be lost (exception E4) or, otherwise, clear evidence to demonstrate that it fulfils the circumstances described in one of the other policy exceptions.

3.8 Oxfordshire Playing Fields Association: No comments received

#### **4. Relevant National and Local Policy and Guidance**

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C28: Layout, design and external appearance of new development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Submission Cherwell Local Plan (January 2014)

The draft Local Plan has been through public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council’s strategy for the District to 2031. The policies listed below are considered to be material to this case and

are not replicated by saved Development Plan policy:

Policy BSC 7: Meeting Education Needs

Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision

## 5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of the development and loss of playing field
- Visual Amenity
- Neighbouring Amenity
- Highway matters

### Relevant Planning History

5.2 09/01454/F: Renewal of temporary planning permission for porta-cabin used to house Drayton Pre-School and Playgroup. (Permitted for a 5 year period – expires December 2014). This application was the renewal of a temporary planning permission first granted in 2000. It relates to a building situated in the south –west corner of the school site.

5.3 12/01549/F: Permanent pre-school and playgroup building to replace temporary structure (Permitted). This permission is for a replacement building on the site of the above temporary building.

### Principle of the development and loss of playing field

5.4 It will be seen from para 3.7 above that a significant concern voiced by Sport England but shared by your officers is the potential loss of an area of playing field on the school site as a result of this development. The former Local Plan policies for the protection of playing fields (Policy R11) is not a saved policy , but remains a principal concern as exhibited by the inclusion of Policy BSC 10 in the submission Local Plan which states:

### Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision

The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures:

- Protecting existing sites
- Addressing existing deficiencies in provision through qualitative enhancement of existing provision,
- improving access to existing facilities or securing new provision, and
- Ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.

In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils, together with potential users of the green space wherever possible, to ensure that provision meets local needs.

5.5 Sport England is a statutory consultee for applications where land has been used as a playing field at any time in the last 5 years and remains undeveloped; or has been allocated for use as a playing field in a development plan; or involves the replacement of the grass surface of a playing pitch on a playing field with an artificial surface. Sport England opposes development on playing fields in all but exceptional circumstances. These exceptional circumstances are where, in the judgement of Sport England:

E1 A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment, and the site has no special significance to the interests of sport.

E2 The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use.

E3 The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.

E4 The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development.

E5 The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

5.6 The land forming the application site consists of an area of grass that adjoins the playing surface of the adjacent rugby pitch. The pitch can be moved further north to ensure that there is adequate safety zone beyond the deadball zone behind the posts; however there is no doubt that this area is used for sports practice and informal games, and would be lost to those uses as a result of the development. Unfortunately the site of the existing playgroup building is not in a position which can act as replacement compensation.

5.7 To address this significant failing, which without being corrected would result in a recommendation of refusal, the North Oxfordshire Academy has recently (30 April 2014) submitted an application for a 3G synthetic turf pitch (STP) and floodlights in the south west corner of the school site as a replacement facility ( 14/00695/F).

5.8 The applicant seeks to demonstrate that the proposed developments accord with exception E5 in that the sporting benefits arising from the development with the provision of a synthetic sports pitch (STP) is of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field. If it cannot be demonstrated that the benefit is sufficient Sport England will object to the application. Sport England has not yet commented on the proposal, however comments are expected prior to the committee meeting

5.9 In terms of improvements to sporting facilities, the applicant argues that the proposed 3G pitch is a specialist facility suitable for use for competitive football and would meet FIFA standards. A supporting letter from the Oxfordshire Football Association Ltd comments that *"The FA have highlighted the development of 3G pitches as a key priority within their National Facilities Strategy 2013-15 and at present there are only two full-size floodlit 3G in the county at Oxford City Football Club and Carterton Community College both nearly 30 miles away from the site"*.

5.10 The Council is currently awaiting the outcome of a consultation with Sport England to

ascertain their attitude to this offered alternative provision. The proposal does appear to offer a facility that would be new to this area and address a need. In the opinion of the Head of Development Management this seems to be a good replacement that will significantly add to the overall sports facilities on the school site and for the wider community.

### **Visual Amenity**

- 5.11 The proposed building is a single storey building with a simple, modern design with the use of render and timber finish. Some brightly coloured windows are included on the design and small features like this would help to identify it as the playschool building. The building would be situated within the existing school site and would not appear out of place with the existing buildings on the site.
- 5.12 There would be some limited views of the proposed building from the public domain, at the end of Ludlow Drive, but this is not considered to be harmful given the context of the site. The proposed building is small in scale and would not be overly prominent when viewed from the public domain.
- 5.13 The proposal includes 1.8m close board fence to secure the outdoor space. This is a necessary requirement due to the proposed use. It would match the fencing along the adjoining boundary with the neighbouring properties.
- 5.14 The design of the proposed development would not have a detrimental impact on visual amenity and complies with government guidance on requiring good design contained within the National Planning Policy Framework and Policy C28 of the adopted Cherwell Local Plan.

### **Highway matters**

- 5.15 At para 3.4 above full comments from the local highway authority provide a clear insight into the highway issues associated with the development proposed. Clearly the pre-school facility is not new to this overall school site, but it is in a totally different part of the site and its predominant access will be from a different part of the road network. Furthermore the intention is to enlarge the facility to provide more spaces including for disadvantaged two year olds under the governments announced scheme to provide funding for such children.
- 5.16 The principal highway issues are therefore traffic flows, congestion, parking and construction traffic management.
- 5.17 The applicant has shown a specific area of car parking that would be allocated to the proposed play group. It is essential that the required travel plan demonstrates how this will be managed to ensure it is available for its intended user group.
- 5.18 The proposal seeks to increase the number of places in comparison to the existing play group, but it also intends to extend the opening hours therefore offering a wider variety of drop off/pick up times. Therefore it is not anticipated that all of the children would arrive/leave together and not all of the activity would coincide with the school times.
- 5.19 Concerns raised by local residents relate to existing traffic problems associated with parents dropping off/picking up school children along Ludlow Drive and Warkworth Close. This is an existing issue and it is considered that a full review of the schools travel plan would identify the best way for the school to address this issue.
- 5.20 It will be seen that the local highway authority consider that the key to many of these problems is to revamp the school's travel plan, to produce a car park management plan, and to produce a construction phase management plan. Furthermore Oxfordshire County Council indicate that there is no reason why adequate

arrangements cannot be produced subject to the imposition of conditions to require the production of these documents before the commencement of use.

### **Neighbouring Amenity**

- 5.21 Not surprisingly local residents in Ludlow Drive and Warkworth Close are anxious about the proposal on highway and residential impact grounds. Their concerns relating to highway matters have been addressed above.
- 5.22 Due to the position of the site only two dwellings abut the boundary of the proposed playgroup, with those properties being 32m and 36m away from the proposed building, although it is acknowledge that the resulting space between them is proposed as outdoor play space.
- 5.23 Concerns have been raised regarding noise levels; the current site is playing field and can be utilised by the school at any time. The key difference will be the age of the children using the space; however, your officers would not expect this change to result in significantly detrimental levels of noise. Furthermore, the playschool would only be used on week days during the daytime and therefore would not result in noise at unsociable times.
- 5.24 The proposed building would be positioned a sufficient distance away from the residential properties as not to appear over bearing or overly dominant and would not affect the general outlook for the neighbouring dwellings.
- 5.25 The proposed building and use is considered appropriate for a secondary school site and is not considered to cause harm to neighbouring amenity and therefore accords with the core principles of the National Planning Policy Framework.

### **Others Matters**

- 5.26 Concerns have been raised that the proposal could set a precedent for future development on playing fields. As shown in this report, the exception policies set out by Sport England are extremely restrictive and would prevent any future development that was not appropriately mitigated.

### **Engagement**

- 5.27 With regard to the duty set out in paragraphs 186 and 187 of the Framework, on-going discussion and meetings have taken place with the applicant and their agent to attempt to overcome any concerns or issues. It is considered that the duty to be positive and proactive has been discharged through constant communication with the applicant and the efficient determination of the application.

## **6. Recommendation**

**Approval**, subject to:

- a) Sport England withdrawing their objections
- b) The approval of application 14/00695/F for a synthetic sports pitch and flood lighting
- c) Negotiation of a legal agreement or condition to link this application with application 14/00695/F to ensure the replacement sporting facility would be provided within a suitable timescale
- d) the following conditions:

1. The works to which this consent relates shall be begun not later than the expiration of three years beginning with the date of this consent.



Reason - To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement and drawings numbered: 001, 002 rev A, 003 rev C, 004, 005 and 006 received with the submission of the application.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. The building shall be used only for the purpose of day nursery/play group and for no other purpose whatsoever, including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.

Reason - In order to control the future use of the building and protect the amenities of the neighbouring properties in accordance with Government guidance contained within the National Planning Policy Framework.

4. The development hereby approved shall be constructed in accordance with the material specification details shown on drawing number 004 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, to protect neighbouring amenity and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, to protect neighbouring amenity and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

8. Prior to the first occupation of the development hereby approved, a Car Park Management Strategy for the whole school site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Car Park Management Strategy shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

### **Planning Notes**

1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

2. In pursuant of condition 7, the travel plan is required to consider the wider school site as well as the proposed nursery use.

### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as on-going discussion have taken place to overcome concerns regarding the loss of play fields.