

Applicant: Chesterton Parish Council

Proposal: Erection of perimeter security fence around playing fields (retrospective) and application for the erection of an additional 20 metres of fencing

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Due to the level of local public interest.

Expiry Date: 29 May 2017 **Committee Date:** 18 May 2017

Recommendation: Approve

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is the playing field located in the southern part of Chesterton. The properties to the north of the site back onto the playing field and a new housing development exists immediately to the west of the site where a number of residential properties face onto the western boundary of the playing field. A new community hall exists to the south west of the site and a sports pavilion and parking areas exists adjacent to the southern boundary of the site.
- 1.2. A children's play area exists immediately to the north of the community centre which was secured as part of the Section 106 agreement associated with new development to the west. However the area of play equipment further to the north of the site including adult gym equipment and zip wire are currently subject to an enforcement enquiry which the Councils Enforcement Team are actively investigating.
- 1.3. The site lies outside of the designated Chesterton Conservation Area, but the boundary to the Conservation Area exists immediately to the east of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks retrospective planning permission for the erection of 2 areas of fencing. The fence is 2.4 metre high green mesh fencing. The first part of the fencing runs adjacent to the eastern boundary of the playing field with the road. The second part of the fence is situated on the western boundary of the playing pitches and is located between the playing fields and the community centre/play equipment. Planning consent is also sought to extend this fence by another 20 metres to the north adjacent to the area currently occupying the adult gym equipment.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
10/00377/F	Replacement pavilion	Application Permitted
12/00305/OUT	Erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping (outline)	Application Permitted
13/01525/REM	Reserved Matters to Outline application 12/00305/OUT - Erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping	Application Permitted

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 04.05.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2. At the time of writing the report 37 letters had been received. This included 13 letters of objection and 24 letters of support. A further petition with 159 signatures in support of the application has also been support.

5.3. The comments raised by third parties are summarised as follows

Objections

- Proposal is contrary to BSC11 which requires appropriate ancillary facilities and landscaping to support provision of a spacious outlook.
- Fencing disrupts outlook onto green space
- Fence is too big and unsightly and disrupts views of village green.
- Fencing appears odd and unfinished.
- Proposals are of poor design, are not in a material or style which is in keeping with its location (a rural village) and does not respect the adjoining conservation area. It is not sympathetic to the character of the neighbouring dwellings. The addition of this fence does not conserve or enhance the character of the area. The proposal is therefore contrary to Policy ESD15 of the Local Plan.

- The fences restrict the access and use of the outdoor space. This is contrary to the National Planning Policy Framework (NPPF) which indicates that public rights of way and access should be protected.
- Noise pollution through people kicking balls against the fence Policy BSC 11 recognises previous national planning guidance such as that contained within Planning Policy Guidance 17 (PPG 17) - noisy or other intrusive activities should be restricted to locations where they will have minimal or no impact on residents or other recreational users. NPPF also states that Planning policies and decisions should aim to avoid noise.
- The new play and gym equipment which the fence protects is not authorised.
- Fencing is not needed or justified. It is an 'over the top' solution.
- No protection is provided to the dwellings along Green Lane or the vehicles in the car park. Therefore why is it required for Geminus Road?
- Fence is not tall enough to protect the community centre roof and alternative window protection could be provided.
- The plans show two full size football pitches however in reality there is one child's pitch meaning there is sufficient distance to the adjacent play area to protect users.

Support

- The fence is required to protect surrounding uses from activities on the playing field which includes football and cricket.
- Fence protects the Community Centre, play area, properties in Geminus Road and users of the adult gym equipment. It also protects cars using Church Road.
- Fence is a health and safety necessity.
- The fence is unobtrusive and a sensible height. It is almost invisible unless one wishes to stare hard at it.
- The fence blends into the surrounding area.
- Surprised that the fence requires planning permission.

5.4. The comments received can be viewed in full on the Council's website, via the online Planning Register

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

STATUTORY CONSULTEES

6.2. **SPORT ENGLAND: No objections.** Having assessed the application, Sport England is satisfied that the proposed development meets the following Sport England Policy exception:

- 6.3. *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.*
- 6.4. This being the case, Sport England does not wish to raise an objection to this application

NON-STATUTORY CONSULTEES

- 6.5. CDC LANDSCAPE: **No comments.**

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- BSC10 – Open space, outdoor sport and recreation provision
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

- 8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character and appearance of the area
- Residential amenity
- Other matters

Principle of development

- 8.2. The application site forms part of an established existing playing field. The existing and proposed fencing is an ancillary element to the use of the playing field and does not impact on the provision of sports facilities on the playing field. Sport England has been consulted and has raised no objections. Therefore the principle of the development is considered to be acceptable subject to other material considerations discussed below.

Design, and impact on the character and appearance of the area

- 8.3. Policy ESD15 of the Cherwell Local Plan Part 1 (2015) states that new development should complement the character of its context through sensitive siting, layout and high quality design. It goes on to state that development should be designed to deliver high quality safe, attractive, durable and healthy places to live and that development should be designed to improve the quality and appearance of an area and the way it functions.
- 8.4. The site also lies within the setting of the Chesterton Conservation Area and Policy ESD15 states that development should conserve, sustain and enhance designated heritage assets including their setting.
- 8.5. According to the submitted documents the fencing has been erected for health and safety reasons and also to improve the use of the playing field by users. The playing field is used for a variety of uses including football and cricket. It is stated that the fencing adjacent to the eastern boundary has been erected to help reduce instances of balls going onto the adjacent road. This fence is located adjacent to an existing hedgerow and the design and appearance of the fence does not appear unduly prominent in this location and is screened by the existing planting. The Conservation Area boundary is located immediately to the west of this fencing however given the presence of the hedge separating the fence from the road and the fact any glimpse view of the fence are seen in the context of the playing field the proposal is not considered to detrimentally impact on the setting of the Conservation Area.
- 8.6. It is stated that the proposed and existing fencing adjacent to the west of the playing area is to protect the community centre building; the children's play area and adult gym equipment to the north of the community centre and also to prevent balls from going onto Geminus Road to the west of the site. While a number of objectors have raised concerns that the adult gym equipment and some of the play equipment for older children is current under investigation by the Enforcement Team these structures are not for consideration in this application and this application solely relates to the fence. Several of the objectors dispute the applicant's stated justification for fencing in this location. However, there would clearly be some benefits associated with the fencing by preventing some balls from straying off the pitch onto the adjacent uses.
- 8.7. That said, the main issue to consider is whether any visual harm associated with development would justify refusal of the application. The fence is clearly visible from the adjacent new development, to the west. However, it is seen in the context of a modern playing field and is not considered to appear unduly prominent or stark in this context. Within the context of a playing field the fence is not considered to appear out of place. The design and colour choice (dark green) of the fence also helps to reduce the visual impact of the development. Furthermore the fence is set away from the boundary with the residential development to the west which further reduces visual impact on the neighbouring development.
- 8.8. A further matter to consider is that as the proposed fence on the western side of the playing field is not adjacent to a highway used by vehicular traffic a 2 metre high fence could be erected on the site without planning permission under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. This would have a very similar visual impact to the fencing as currently proposed which is only 0.4 metre higher.
- 8.9. Overall, therefore, the visual impact of the fence is considered to be acceptable and would not appear out of keeping or unduly prominent given its setting.

Residential amenity

- 8.10. Both the NPPF and Policy ESD15 of the Local Plan seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook and natural light.
- 8.11. The fence is considered to be a sufficient distance from the neighbouring properties given its height and design to ensure it would not significantly impact on the outlook or light to the properties in Geminus Road or those properties to the north backing onto the site. Given the design of the fence a significant degree of visual permeability will be maintained. It is a long established planning principle that there is no right to a private view over land and therefore the concerns residents have raised regarding the loss of a view over an open field are not material to the consideration of the application.
- 8.12. Residents has also raised concerns that users of the playing field kick balls against the fence which creates noise which is detrimental to their residential amenity. There is little the Council can do to prevent users of the planning field kicking balls against the fence however most users of the playing field are unlikely to do this and those that do are only likely to do for small periods of time. The fence is in the context of a public planning field where there is likely to be a degree of noise and disturbance by people using the facilities or playing sports. Furthermore it must be borne in mind that a fence with a similar height could be erected without planning permission which would have a similar impact. There has been no objection from the Environmental Protection Officer and given the above facts it is considered that the noise associated with the fencing would not be a sustainable reason for refusal.

Other matters

- 8.13. Some residents have stated that the erection of the fencing has restricted their use of the playing field and it now feels more like a private space. However the public use of the playing field is still available and the fencing does not significantly impact on access to the playing fields in officers views. Access is still available to the north and south of the site.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The development would result in new fencing being located to the eastern and western boundary of the playing pitches on the playing field. The main issue to consider is the visual impact of the proposal however given the chosen design of the fencing, that fact that it would be seen in the context of an established playing field and the relationship with the surrounding development, the proposal is not considered to detrimentally impact on the character and appearance of the area or the setting of the Conservation Area. The justification for the fencing is disputed by some local residents however there are clearly some practical benefits arising from the scheme to users of the playing field. The development is also considered to be acceptable with regards to its impact on the residential amenity of the neighbouring property. Finally a similar fence of 2 metres could be erected without the need for planning permission. It is therefore recommended that planning permission be granted.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

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

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, drawing number 1020 B, 1020 K and pictures of fencing.

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

CASE OFFICER: James Kirkham

TEL: 01295 221896