

Case Officer: Michael Sackey

Applicant: St Thomas More Catholic Primary School

Proposal: Multi Use Games Area with all weather surfacing (Astro Turf) and sports fencing

Ward: Kidlington East

Councillors: Councillor Maurice Billington, Councillor and Councillor Ian Middleton

Reason for Referral: Called in by Councillor Billington on the grounds of the proposals' impact on neighbours' amenity

Expiry Date: 19 December 2019

Committee Date:

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Retrospective application for the erection of Multi Use Games Area with all weather surfacing (Astro Turf) and sports fencing (revised scheme of application reference (19/00774/F))

Consultations

The following consultees have raised **no objections** to the application:

- Kidlington Parish Council, CDC Environmental Protection and Sport England

Two letters of objection have been received.

Planning Policy and Constraints

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issue arising from the application is the proposals' impact on the character of the area and on residential amenity.

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to the St Thomas More Catholic Primary School, situated off Oxford road and to the rear of the existing St Thomas More Church in Kidlington. The application site is within a residential estate and is bounded by residential neighbours to the north, west, east and a Public Footpath to the south. There are no significant changes in the ground levels of the site which are considered to affect the application's assessment. Neither the Primary School or Church is a listed building nor is the site located within a Conservation Area.

2. CONSTRAINTS

- 2.1. There are no particular site constraints

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application, a revised scheme of application reference (19/00774/F), seeks retrospective permission for the erection of Multi Use Games Area (MUGA) with all-weather surfacing (Astro Turf) and sports fencing. The proposed MUGA would measure approximately 12m depth, 30m width with an overall height 4m and the proposed fencing would measure 3m in height.
- 3.2. The current application is required because, whereas the approved MUGA was positioned at an angle to the western boundary of the site – 4.2m at the closest point and 7.2m at the furthest point – the MUGA has been laid out so that it is parallel to the western boundary of the site at a distance of approx. 4 metres.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/00774/F	New Multi Use Games Area (MUGA) with all-weather surfacing (Astro Turf) and sports fencing.	Application Permitted

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
19/00008/PREAPP	A new multi-use games area - 30 metres by 11 metres. 3 metre high fencing and min of 2 meters from the boundary astro turf will be used on a suitable base for multiple types of sports: netball, basketball, 5-a-side football and hockey

- 5.2. Two options were tabled. Officers advised that Option 1 would not be acceptable and could not be supported, but that subject to officers' concerns being addressed any future planning application for Option 2 was likely to be considered favourably.

6. RESPONSE TO PUBLICITY

- 6.1. 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 (amend as appropriate). The final

date for comments was **06 December 2019**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. Two letters of objection have been received, making comments in relation to visual impact, impact on neighbours' outlook, and the approved plans and imposed conditions not being adhered to.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. 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.

KIDLINGTON PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. No objections

OTHER CONSULTEES

- 7.3. CDC Environmental Protection – **No objections** as per previous application based on the proposed hours of use being term time and until approx. 16.30.
- 7.4. Sports England – **No objection**
- 7.5. CDC Building Control – Consulted on (30.10.2019); no comments received
- 7.6. CDC Ecology – Consulted on (30.10.2019); no comments received
- 7.7. OCC Rights of Way – Consulted on (30.10.2019); no comments received

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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)

- BSC 10 - Open space, Outdoor sport and Recreation Provision
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- 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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)
- Kidlington Master Plan (2016)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

9. APPRAISAL

9.1. The key issues for consideration in this case are:

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

Principle of Development

9.2. *Policy BSC 10 states 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 such as protecting existing sites, addressing existing deficiencies in provision through qualitative enhancement of existing 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 greenspace wherever possible, to ensure that provision meets local needs.*

9.3. As set out above, the application relates to the erection of a MUGA at the site. The principle of the development has already been assessed as being acceptable under the previous application reference (19/00774/F).

9.4. The MUGA provides an all-weather playing surface that can be used 12 months of the year. It is to be managed by the School for Physical Education lessons and sporting sessions. The applicant has confirmed in the previous application that (1) the hours of use for the MUGA would be between 8.50am and 3.15pm i.e. within the school opening hours, and after school clubs until 4.30pm (2) that its use would be confined to the school / those attending the school.

9.5. The supporting information accompanying the current application indicates that the current grass area, which the MUGA replaced, was not usable for many months of the year due to poor drainage and ground conditions. The school was already using this area for sporting activities for parts of the year, but the development provides an all-weather playing surface that can be used 12 months of the year.

9.6. The applicant has also indicated in the application form that activities taking place on the proposed MUGA would be monitored by a member of staff during break and lunch times and all activities would be supervised.

- 9.7. The use of the MUGA can be managed through conditions as it was in the case of the earlier consent i.e. to be only used within the opening hours of the school.
- 9.8. Having regard to the above, officers are satisfied that the MUGA is acceptable in principle. The overall acceptability of the development carried out is dependent on further considerations such as its visual and residential impact, discussed below.

Design and impact on character of area

- 9.9. *The Government attaches great importance to the design of the built environment within the Framework. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*
- 9.10. *Policy ESD15 also states that: "New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards."*
- 9.11. *Saved Policy C28 of the CLP 1996 further states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.*
- 9.12. The development carried out is of the same scale as that approved, with the only changes relate to its positioning, i.e. that it is sited closer to the site's western boundary than the approved scheme.
- 9.13. The adjacent neighbours have raised concerns with regards to the visual impact of the development. Similar concerns were raised at the time of the first application, which preceding the construction of the MUGA.
- 9.14. The MUGA is not visible from the highway but is visible from the neighbours to the west and from the Public Footpath to the south of the site and is set closer in proximity to the western boundary of the site than the approved scheme.
- 9.15. The development is relatively large in scale, particularly in terms of the area covered and the proposed fencing. However, it is set down in height from various buildings at the site and it is considered that the design of the mesh fencing - with spacers of approximately (6-8mm) between the steel mesh rather than solid fence, lessens its visual impact.
- 9.16. Given its scale, siting and design, officers consider it does not have a harmful impact on the character and appearance of the locality, and that its visual impact is not materially different to that approved.
- 9.17. For these reasons, the development accords with retained Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and government guidance within the National Planning Policy Framework.

Residential Amenity

- 9.18. The MUGA is positioned on an area of land that was previously used as a playing field for the Primary School and does not result in the loss of land for sport and recreation.
- 9.19. The MUGA concentrates activity in this part of the site all year round rather than a few months of the year as previously experienced. Information about hours and nature of use was sought and received at the time of the last application. It was

clarified that the MUGA would only be used by the school during the school opening times and for after school clubs and that no lighting is proposed.

- 9.20. The Council's Environmental Protection Officer has commented on the proposal, raising no objections to the development.
- 9.21. It is acknowledged that the adjacent neighbours have raised concerns with regards to the outlook and potential noise impacts of the proposal.
- 9.22. The MUGA is positioned parallel to the site's western boundary with a gap of 4 metres between the development and the site boundary beyond which are neighbouring properties on Hardwick Avenue. It was approved at an angle to the boundary, being 4.2m at the closest point and 7.2 metres at the furthest point.
- 9.23. Albeit closer to these neighbours, officers consider the development does not have a significantly different impact on any of the adjacent neighbours in terms of loss of light, outlook or privacy to the extent that warrants refusal of the application.
- 9.24. It must be noted that if sited 5 metres from the boundary rather than 4 metres, the fencing would not require planning permission. Officers consider the development does not have so different an impact from the permitted development fallback alternative as to warrant refusal. (The hardstanding does not benefit from such a fallback position and requires consent in any case.)
- 9.25. Given the existing use of the site, and subject to a condition requiring the MUGA to be used for purposes ancillary to the School and within the opening hours previously stated by the applicant, and a condition to preclude lighting without a further planning application, the development is considered acceptable in residential amenity terms.
- 9.26. Subject to those condition, the development thus accords with retained Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and government guidance within the NPPF.

Other matters

Article 8 and Article 1 of the First Protocol

- 9.27. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

Duty under The Equalities Act 2010

- 9.28. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.29. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

11. RECOMMENDATION

GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW AND (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY).

CONDITIONS

Time Limit

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.

Compliance with Plans

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: 001 C, 003, 004, 005, 006 and 007 and Soundplanning (Proposed MUGA Sports Pitch at St Thomas More Catholic School, Kidlington).

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.

Restriction on times use

3. The Multi Use Games Area (MUGA) hereby approved shall not be used other than between 08:50 hours and 16:30 hours on Monday to Friday inclusive.

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Restriction on Floodlighting

4. No external lights shall be erected on the land or in connection with the development hereby approved without the grant of further specific planning permission from the local Planning Authority.

Reason – In order to safeguard the amenities of the area and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.