

## ITEM NO. 4.3

### Delegated Confirmation List

<b>Application Ref:</b>	19/01871/R3FUL
<b>Proposal:</b>	Change of use of part of the existing school playing fields with current open access to the public, to enclosed school playing fields, with erection of 2.4m high fencing, with out of school hours public access
<b>Site:</b>	Ken Stimpson Community School, Staniland Way, Werrington, Peterborough
<b>Applicant:</b>	Mr Bryan Erwin
<b>Agent:</b>	Mr Mark Payne, Hamson Barron Smith
<b>Referred by:</b>	<b>Councillor J Fox</b>
<b>Reason:</b>	No reason or logic why we need the fence at the rear of the school.
<b>Site visit:</b>	06.01.2020
<b>Case officer:</b>	Mr D Jolley
<b>Telephone No.</b>	01733 4501733 453414
<b>E-Mail:</b>	david.jolley@peterborough.gov.uk
<b>Recommendation:</b>	<b>GRANT</b> subject to relevant conditions

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## 1 **Description of the site and surroundings and Summary of the proposal**

### Site and Surroundings

Ken Stimpson Community School, a secondary school, is located to the north west of Peterborough, adjacent to the Werrington District Centre. The school site is surrounded on all other boundaries by residential dwellings in cul-de-sac arrangement. The site consists of school, public library and sports centre with a significant area of playing fields to the side and rear.

The application site itself is located to the west of the main school complex and comprises public open space (POS) laid to informal grass and 2no. formally marked out sports pitches. Whilst the area is designated POS, the school has use of the area during school hours and these form part of the school's playing fields.

There is also a secondary application site, to the east of the school site comprising a grassed landscape area enclosed by mature trees and shrubbery, with Foxcovert Walk (a pedestrian footpath) running along the eastern boundary.

### The Proposal

The proposal seeks to change the use of part of the existing school playing fields which currently has open access to the public, to enclosed school playing fields by way of the erection of 2.4 metre high fencing. It is proposed for public use to be maintained, with out of school hours public access.

The proposal also seeks planning permission for the construction of a hard surfaced footpath to the east of the school site, formalising an existing pedestrian desire line into the school site.

## 2 Planning History

Reference	Proposal	Decision	Date
01/00303/R3FUL	2.4m high palisade fencing and gates and 2.4m high iron railings with gates (within and adjoining school building complex)	Permitted	06/08/2001
03/00990/FUL	2.4m palisade fencing with access gates and erection of canopy	Permitted	18/08/2003
04/00472/FUL	Erection of 2.4m high palisade fencing with access gates	Permitted	26/05/2004
05/01574/FUL	New school buildings and hard play area, with alterations to existing buildings	Permitted	20/12/2005
09/00713/FUL	Provision of a community car park, including the relocation of existing tennis courts, alterations to access and fencing	Permitted	27/08/2009
18/00410/R3FUL	Two form entry expansion to the existing Ken Stimpson Community School, to include change of use of land from Open Space to educational purposes to support a two storey extension providing teaching accommodation. Relocation of Substation. Single storey extension to the existing dining room. Internal remodelling to existing Block 1 to provide Science teaching facilities and internal remodelling to existing Block 5, converting the existing school shop to provide two Music Practice rooms along with associated off site highway works along Staniland Way and St David's Lane	Permitted	01/10/2018

## 3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### National Planning Policy Framework (2019)

#### **Paragraph 94 - Schools**

Local planning authorities should take a proactive, positive and collaborative approach to meeting the requirement to ensure that sufficient school places are available to meet the needs of local communities. Great weight should be given to the need to create, expand or alter schools.

#### **Paragraph 97 - Existing Open Space**

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space is surplus to requirements; or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

### Peterborough Local Plan 2016 to 2036 (2019)

#### **LP16 - Urban Design and the Public Realm**

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use

appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

#### **LP17 - Amenity Provision**

LP17a) Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

#### **LP23 - Local Green Space, Protected Green Space and Existing Open Space**

Local Green Space will be protected in line with the NPPF. Development will only be permitted if in addition to the requirements of the NPPF there would be no significant detrimental impact on the character and appearance of the surrounding areas, ecology and heritage assets.

#### **LP29 - Trees and Woodland**

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered.

Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

#### **LP30 - Culture, Leisure, Tourism and Community Facilities**

LP30a) Development of new cultural, leisure and tourism facilities will be supported in the city centre. Facilities elsewhere may be supported in accordance with a sequential approach to site selection.

LP30b) Development proposals should recognise that community facilities are an integral component in achieving and maintaining sustainable development. Proposals for new community facilities will be supported in principle.

LP30c) The loss via redevelopment of an existing community, cultural, leisure or tourism facility will only be permitted if it is demonstrated that the facility is no longer fit for purpose, the service provided can be met by another facility or the proposal includes a new facility of a similar nature.

## **4 Consultations/Representations**

### **Werrington Neighbourhood Council (20.12.19)**

Comments - Werrington Neighbourhood Council believes that the ethos of Ken Stimpson Community School as a community school has been very important since it was built and the shared field has been an important part of this. However we recognise that times change and problems with this arrangement have arisen recently, particularly with regard to the issues of student protection and animal fouling on school playing fields. These have been identified by the Local Authority and the school as concerns that need to be addressed and reflect Ofsted's safeguarding expectations. We are therefore not opposing this planning application but do make the following points about it:

We recognise that there has been some very vocal local opposition to the proposals both on Facebook and at the public consultation, although we feel that this was probably not the majority view in Werrington. Four issues have been highlighted by those opposing the proposals: 1) Impact on the environment, 2) Loss of amenity of field to general public, 3) Visual impact of ugly fences, 4) Impact on nearby houses, noise etc.

We feel that the proposals to fence off just 3 football pitches in one corner, does as much as is possible to minimise these impacts, although some form of natural mitigation of the fencing would be desirable and make the whole project more acceptable to residents, especially those living

nearby. Further we feel that the possibility of the use of blackthorn hedging instead of the wire fencing proposed would be preferable but we accept that there are conflicting views about how effective such hedging could be. Also we recognise that there would be long term cost implications for the school with such options.

Finally the alternative proposal of fencing off part of the other side of the field would both fragment the field left for public use and result in the creation of two long narrow enclosed pathways that would lend themselves to anti-social behaviour.

**PCC Tree Officer (09.01.20)**

No objections - Do not believe that the direct construction works to erect the fencing will have a detriment or long term adverse effect on the adjacent trees. However, please condition tree protection measure by way of an Arboricultural Method Statement (AMS) or Tree Protection Plan (TPP) to ensure the trees are not adversely affected by associated construction related works, including driving vehicles between the fencing and the trees/canopy and related root damage/ground compaction, the storage of materials, mixing of cement and the washing out of cement mixers and wheel barrows etc.

**Michael Britton (14.01.20)**

Objection - The Public Open Space has been open for both public and school use since the site's construction. This POS is maintained by our department and no dialogue has taken place with the Applicant.

**PCC Peterborough Highways Services (16.01.20)**

No objection.

**Sport England (07.01.20)**

No objection - It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years. The consultation with Sport England is therefore a statutory requirement. Sport England has considered the application in light of the National Planning Policy Framework (particularly paragraph 97) and against its own playing fields policy.

Sport England is satisfied that the proposed development meets exception E3 of its playing fields policy, in that the proposed development affects only land incapable of forming part of a playing pitch and does not: reduce the size of any playing pitch; result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas); reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality; result in the loss of other sporting provision or ancillary facilities on the site; or prejudice the use of any remaining areas of playing field on the site

**Local Residents/Interested Parties**

Initial consultations: 198

Total number of responses: 96

Total number of objections: 45

Total number in support: 39

**79 representations have been received in relation to the proposal.**

45 representations in **support** of the proposal have been received, stating:

- Problems with dog mess in the area
- Essential for safety of students and staff
- A fence is needed around the school to keep dangerous people out and vulnerable students in

- Can hire out the area to generate money for the school

N.B. 3 letters of support have the address listed as Ken Stimpson Community School and have therefore been discounted.

39 letters of **objection** have also been received, with the following matters raised:

- If the football fields are created and transferred to Ken Stimpson, when the school applies for Academy status, the football fields will come under the ownership of the Secretary of State and then become part of the school property associated with Ken Stimpson on approval of Academy status. The residents of Werrington will then completely lose any entitlement to enjoyment of these green spaces. It is essential that this practice is safeguarded so the green area is preserved for the use of the residents of Werrington. Assurances are sought that PCC will not allow the loss of this valuable land.
- When the fields were created they were dedicated to the enjoyment of the residents of Werrington and this is confirmed by the Parks Officer. This was designated as a shared space and should remain in shared ownership with the school and surrounding community.
- The fence would also deeply affect the enjoyment by the residents of the field and the fence an absolute eye sore. The Head Teacher also says that the field will be in use in excess of 50 hours per week and this would also see a massive increase in noise around the area.
- Concern teachers were coerced into supporting the application
- Some schools don't have fences
- The field is a community space
- Public money should be spent opening spaces not closing them
- Should use hedges instead
- What will happen to leaves and rubbish that collect? Won't this be a fire hazard?
- Will have to walk further to unfenced section of fields
- Will affect property value
- Poor appearance
- There are no safeguarding concerns and OFSTED do not require it
- To protect and enhance landscape, biodiversity, and geo diversity and minimise the pollution of natural resources
- Site 2 is the better option
- Fence is too high
- Harm to wildlife, particularly hedgehogs
- Swallowfield residents will have to look at the fence
- Appearance of fence will reduce pride and encourage antisocial behaviour
- There is an agenda behind this, detailed A.I.A is suspicious
- The fencing will make the pathway claustrophobic at peak movement times

## **5 Assessment of the planning issues**

The main considerations are:

- Principle of development
- Impact upon the character of the area
- Neighbour amenity
- Trees
- Ecology

### **a) Principle of development**

As detailed in Section 1 above, the main part of the proposal seeks the erection of 2.4 metre high fencing to enclose an area of Public Open Space (POS). It is intended for the area to be used solely by the school during school hours, which is currently the case albeit with unrestricted public access, whilst retaining public usage out of hours through a formal booking system.

The POS is not formally designated as Local Green Space, but is still nonetheless open space and as such, paragraph 97 of the National Planning Policy Framework (NPPF) is the key policy in

relation to the proposal. This advises that existing open space, sports and recreational buildings and land, including playing fields, should not be lost unless certain criteria are met.

Turning first to whether the open space is surplus to requirements, the Peterborough Open Space Strategy (2016) which formed the evidence base for the recently adopted Local Plan, indicates that Werrington Ward has 3.7ha of neighbourhood park in excess of the quantitative requirement for the population. However, this should not be taken to mean that the space is surplus to requirement and, from the objections received, it is acknowledged that the POS is important to the local community. As such, Officers are of the view that it is not surplus to requirements.

However, paragraph 97 does permit the loss if the benefits of the proposal clearly outweigh the loss of the current use. It is the view of Officers that the proposal would not result in the complete loss of the POS for the community and would formalise the existing arrangement of use as school playing field. The key difference would be that public access would be restricted, with a requirement to book the fields for use. Sport England are the statutory consultee in this regard and have raised no objections to the proposal. They have advised that the proposal accords with the requirements of paragraph 97 and their own, separate, exceptions policy.

Furthermore, paragraph 94 of the NPPF places significant weight upon the need to support school development to meet the education needs of local communities. Whilst the proposal would not specifically expand the school above and beyond its existing playing fields (as they have use of the site presently), the enclosure would pose a significant betterment in terms of the safeguarding and welfare of pupils which Officers consider accords with this provision of the NPPF.

Taking this into account, Officers are of the view that the requirements of paragraph 97 of the NPPF are met, such that the proposal retains adequate public usage of the POS and does not pose an unacceptable loss.

In addition to the provisions of paragraph 97, Policy LP23 of the Peterborough Local Plan requires that two additional criteria are met:

- a) It is not considered that the POS subject to the application makes an important contribution green infrastructure network or connectivity of habitats. It forms part of a much wider and larger area of neighbourhood park (circa 20% is subject to the application) and it is this wider area which is of significant contribution to the green infrastructure network. Officers do not consider that the proposal would lead to significant fragmentation and would retain the overall value of the site.
- b) Detailed assessment in relation to character impact is set out below however it is not considered that unacceptable harm would result to the visual amenity of the locality.

To ensure that public access to the POS is maintained, as proposed, it is considered necessary to require that a Community Use Agreement be approved by the Local Planning Authority before the development takes place.

On the basis of the above, Officers consider that the principle of development is acceptable, and in accordance with paragraphs 94 and 97 of the NPPF, and Policy LP23 of the Peterborough Local Plan (2019).

#### **b) Impact upon the character of the area**

The fence will enclose an area of school field directly to the west (rear) of the school enclosing an area of 280m by 93m. This area will then contain two full size pitches and junior football pitch. The fence will be set in 10 metres from pathways surrounding the site which helps to mitigate the impact of the fence as viewed from the footpath. The enclosed area is approximately 20% of the overall playing area and as such represents a relatively small proportion of the overall open area.

The use of security fencing around schools and other facilities is commonplace throughout the Authority area, and the style of fencing proposed (weldmesh) is found in many areas of POS. As an established part of the character of the wider authority, Officers are of the opinion that the fence would not appear incongruous, particularly as the School is already partly fenced.

It is acknowledged that the proposal would result in a significant change to the character of the area, however this change is not considered unacceptably harmful in the context of the commonality of security fencing in the Authority area.

With regards to the other element of the proposal, the formal hardsurfaced footpath to the east of the school site, this would have no significant impact to the visual amenity of the area. It seeks to formalise an existing informal access into the school and therefore, to some degree, would appear a more tidy access.

In light of the above it is considered that the proposal will not unacceptably harm the character or visual amenity of the area and is therefore in accordance with Policy LP16 of the Peterborough Local Plan (2019).

### **c) Neighbour amenity**

The proposed fence would be located approximately 20 metres from the rear boundary of the dwellings of Swallowfield, the closest residential dwellings. At this distance, the fence would have no discernible impact upon the amenity of the occupiers of the dwelling.

In terms of the use, this would not alter as presently the area is used as school playing field. There shall be no intensification of the use and therefore no additional noise impacts to local residents.

On this basis, the proposal would not result in unacceptable impact to the amenities of local residents and is therefore in accordance with Policy LP17 of the Peterborough Local Plan (2019).

### **d) Trees**

The proposed fencing to enclose the POS would be sited in relatively close proximity to the public footpath which intersects the wider POS running north-south. These trees are mature and of key amenity value to the wider area. Furthermore, the proposed footpath to the east of the school site would run within an area of informal landscaping with mature trees and shrubs.]

The City Council's Tree Officer has raised no objections to the proposal, advising that no undue harm would result to trees. It has however been requested that a detailed Arboricultural Method Statement and/or Tree Protection Plan be secured by condition to ensure that no harm arises during the construction period. This condition is considered essential and reasonable. Subject to the imposition of such a condition, the proposal is considered to be in accordance with Policy LP29 of the Peterborough Local Plan (2019).

### **e) Other matters**

A number of letters of objection and support have been received in relation to the proposal. In response to those comments raised which are not addressed above:

*No safeguarding need for the fencing or area to be enclosed* - Officers are not experts in this matter and must defer to the professional expertise of the education provider. They have advised that the fencing is requirement to ensure the safeguarding of pupils and in the interests of the wellbeing of students owing to dog fouling. Officers are not in a position to challenge or question this.

*Concern regarding the number of letters of support that have been received and potential of coercion of staff at the school to support the proposal* - No evidence of coercion has been forthcoming and any letters of support submitted directly by the school (as detailed above) have been discounted. Notwithstanding this, an application is not determined on the number of representations received, it is determined on its own merits and in line with adopted planning policy.

*Transfer of the school to Academy status and loss of PCC ownership* - This is not a material planning consideration as the application is concerned solely with the land use. A condition is to

be imposed requiring that a scheme of community use be agreed by the Local Planning Authority and adhered to in perpetuity.

*Hedges rather than fencing would be preferable* - This is not a material consideration in the determination of the application as consideration can only be given to the proposal as submitted.

*Public money would be better spent elsewhere* - There is no policy framework to refuse the application on this basis as this is not a material planning consideration.

*Fence will trap rubbish, harming the character of the area* - Given the nature of the proposal this will occur from time to time, however such an issue is easy to rectify and it is unlikely that the school would wish this situation to persist given the school site appeared clean and well maintained during the Case Officer's site visit.

*Harm to property values* - This is not a material consideration in the determination of the application.

*'Site 2' is preferable as it benefits from better screening and is a more location with less impact on the occupiers of nearby dwellings* - There is no alternative proposed under this application and the proposal must be determined on its merits. Other sites cannot be considered in the determination.

*Harm to wildlife* - Given there is no loss of habitat or biodiversity proposed it is unlikely that the proposal will be harmful in this respect. An objector has stated that the fence could trap hedgehogs. Whilst this may be potentially possible, Officers are of the opinion that this is unlikely to be a regular occurrence given the wider School is already fenced off.

*Swallowfield residents will have to look at the fence* - Views are not protected through the planning process and as the fence will not be overbearing or overshadowing to Swallowfield residents. As such, it would not be reasonable to resist the application on this basis.

*Appearance of fence will reduce pride and encourage antisocial behaviour* - There is no evidence of significant additional antisocial behaviour resulting from fencing within the Authority area, and Officers are not aware of significant antisocial behaviour issues associated with the existing fencing to the school site.

*The proposal will make the pathway claustrophobic at peak movement times* - It is considered that the path and the 10 metre buffer strip adjacent is ample and will not result in unacceptably congested pathway.

## **6 Conclusions**

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The proposal would maintain public use of the POS, albeit in a formalised manner, and would not result in the loss of existing playing fields. Furthermore, the proposal would be of benefit to the pupils of the school through improved safeguarding. The principle is therefore considered acceptable in accordance with paragraphs 94 and 07 of the NPPF, and Policy LP23 of the Peterborough Local Plan (2019);
- The proposed development would not unacceptably harm the character or appearance of the site or surrounding area, and would accord with Policy LP16 of the Peterborough local Plan (2019);
- The proposed development would not unacceptably harm the amenity of adjoining neighbours, and therefore accords with Policy LP17 of the Peterborough Local Plan (2019); and
- The proposal would not harm trees of key landscape and visual amenity value, in accordance with Policy LP29 of the Peterborough Local Plan (2019).

## 7 Recommendation

The Executive Director of Place and Economy recommends that Planning Permission (Regulation 3) is **GRANTED** subject to the following conditions:

C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

C 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Red Line Location plan (drawing number HBS-DR-B 60 P02);
- Proposed Site Plan - Library Area (drawing number HBS-DR-B 63 P0); and
- Proposed Site and Location Plan and Fence Details (drawing number HBS-DR-B 61 P02)

Reason: For the avoidance of doubt and in the interests of proper planning.

C 3 The fencing hereby permitted shall comprise 2.4 metre high weldmesh fencing, finished in green powder coating.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance in accordance with Policy LP16 of the Peterborough Local Plan (2019).

C 4 No development shall commence unless and until a Community Use Agreement has been submitted to and approved in writing by the Local Planning Authority. The Agreement shall include (but not limited to):

- Hours of public use;
- A scheme for how public access to the open space shall be managed (i.e. booking procedure);
- Management responsibilities;
- A mechanism for review; and
- Anything else which the Local Planning Authority, in consultation with Sport England, considers necessary in order to secure the effective community/school use of the site.

The development shall not be used at any time other than in strict compliance with the approved Agreement.

Reason: To secure well managed safe community/school access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with Policy LP23 of the Peterborough Local Plan (2019) and paragraph 97 of the National Planning Policy Framework (2019). This is a pre-commencement condition to ensure that the public open space is not enclosed without a robust scheme for public access being secured.

C 5 No development shall commence unless and until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning

Authority. The plan shall include measures for the protection of trees from damage during the erection of the fencing hereby permitted, including the prevention of vehicles including driving vehicles between the fencing and the trees/canopy and related root damage/ground compaction, the storage of materials, mixing of cement and the washing out of cement mixers and wheel barrows. The approved fencing shall be erected prior to the commencement of the development and retained for its duration.

Reason: In order to protect trees of key amenity value, in accordance with Policy LP29 of the Peterborough Local Plan (2019). This is a pre-commencement condition to ensure that no works take place that may cause harm to the root protection areas of trees.

Copies to Cllr John Fox, Cllr Judy Fox, Cllr Lane