

Agenda Item No. 3.3

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY – PLANNING COMMITTEE**

**7 January 2019**

Report of the Strategic Director – Economy, Transport and Environment

- 3     INSTALLATION OF 400M<sup>2</sup> OF BLACK NETTING TO GO OVER THE EXISTING MULTI-USE GAMES AREA TO CONTAIN OBJECTS, SUCH AS FOOTBALLS/BASKETBALLS, ETC, AT FIRFIELD PRIMARY SCHOOL, 1A SAWLEY ROAD, BREASTON, DE72 3EG**  
**APPLICANT: DERBYSHIRE COUNTY COUNCIL**  
**CODE NO: CD8/1018/65**

**8.717.19**

**Introductory Summary** The proposal is for the installation of 400 square metres (m<sup>2</sup>) of black netting to the existing 5 metres (m) high fencing of the Multi-Use Games Area (MUGA) at Firfield Primary School, Firfield Avenue, Breaston. Concerns have been raised by a local resident in a letter of representation in relation to noise. The resident is concerned that the proposal relates to an intensification of use of the MUGA which generates additional noise at the school site. However, I am satisfied that the installation of the netting would not affect the intensity of use or levels of noise from this school site. The installation of netting would help prevent balls from injuring people or damaging properties. The school site is not located within a Conservation Area or within the setting of a listed building. I consider that the proposed development accords with the development plan and it is, therefore, recommended for approval.

(1)     **Purpose of Report**            To enable the Committee to determine the application.

(2)     **Information and Analysis**

**Site and Surroundings**

Firfield Primary School is located to the west of Sawley Road in Breaston. The school is bounded by dwellings in all directions and has a public right of way (PRoW) (Breaston footpath E2/12/1) running along the southern boundary of school site. The site is not in a Conservation Area, or within the setting of a listed building, or a Neighbourhood Plan Area.

The MUGA is situated to the east of the main school building, and immediately north of the school's red brick boundary wall and a mature hedgerow which separates the school site from the PRow and the dwellings to the south.

### **The Proposal**

This proposal is for the installation of 400m<sup>2</sup> of black netting to be located on top of the existing MUGA's 5m high fencing. The netting would be attached to the existing frame/fencing and laid across the top. It would not increase the height of the existing fencing around the MUGA. The MUGA would not be available for community use outside normal school hours, but it would be used by the school holiday club during school holidays (except the Christmas holiday period). It is also used by the school's breakfast and after school club when there is sufficient height to do so.

### **Relevant Planning History**

Although there is no planning permission which is specific to the construction and use of the MUGA, this development is clearly well established, having been constructed and consequently used over several years in the overall context of the use of the school site for education.

### **Consultations**

#### **Local Member**

Councillor Parkinson has been notified.

#### **Erewash Borough Council – Environmental Health Officer**

Has been notified.

#### **Erewash Borough Council – Planning**

No objection.

#### **Breaston Parish Council**

No objection.

#### **Highway Authority**

Has been notified.

### **Publicity**

The application has been advertised by site notice on two occasions with a request for observations by 29 November 2018 and 6 January 2019. One representation has been received in response to this publicity which states:

*“The multi games play area is located immediately next to the residential properties. When permission was granted some years ago for this facility, to the best of my knowledge no quantitative assessment was undertaken to ascertain the potential disturbance and noise implications of moving an outdoor play zone closer to these properties. Nevertheless, since then this*

*games area is now used even more intensively and indeed were this not to be the case, then there would be no need to now propose the introduction of the net.*

*For example, since the introduction of the games area there has been a significant increase in pupil numbers and the extensive use of the playground area and other activities is of a particular concern. These outdoor activities now involve on a Monday to Friday daily basis, the following:*

- Pre-school time breakfast club from 7.30 to 9.00.*
- Several morning play times.*
- Lunch from 12 noon until 13.30 with occasional loud music being played.*
- Several afternoon play times.*
- Supervised outdoor play and PE sessions.*
- After school games from 15.30-16.30 and sometimes beyond.*
- All day supervised play sessions during the school half term and summer holiday periods.*

*In view of the need for a net, it is a clear acknowledgement of a problem that has grown incrementally and uncontrollably and my concern is that it does not address the general noise disturbance on the amenity of the neighbours. Further, the ever-widening and broader use demonstrates that it has the potential to worsen even the current situation. In view of the above I would wish to register my complaint to the proposal.*

*I have absolutely no desire to spoil the enjoyment of children at general play during the normal school operating hours, but I have to say that the shouting, the bellowing from teachers and other supervising adults, particularly after 15.30 and during the school holiday periods, is an unfair and unreasonable intrusion. If it was possible to introduce measures to control its reasonable level of use and/or introduce a protocol or mechanism to deal with the excessive noise of bellowing and shouting from staff and other supervising adults then I would be prepared to reconsider this objection.”*

## **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the relevant development plan policies are contained in the Erewash Borough Local Plan Saved Policies 2005 (EBLP) (Amended 2014) and the the Adopted Erewash Core Strategy - 2011-2028 (ECS) (March 2014).

Other material considerations include national policy, as set out in the National Planning Policy Framework (NPPF) (July 2018) and the associated Planning Practice Guidance (PPG).

### **Adopted Erewash Core Strategy (2014)**

Policy A: Presumption in Favour of Sustainable Development.

Policy 2: The Spatial Strategy.

Policy 10: Design and Enhancing Local Identity.

### **Erewash Borough Local Plan Saved Policies 2005 (Amended 2014)**

Policy R2: Rights Of Way.

### **National Planning Policy Framework (July 2018)**

Relevant paragraphs from the NPPF are:

11: The presumption in favour of sustainable development.

38 and 47: Decision-making.

54-55: Planning conditions.

109: Considering development proposals.

124 -127: Requiring good design.

197, 201-202: Conserving and enhancing the historic environment.

The key planning considerations for this development are:

- Need for the development.
- Design and visual impact.
- Noise impact.

### **Need for the Development**

The applicant states that the netting is proposed to contain the balls within the area of play. *“Ball containment/retention within the areas of play is important, particularly close to busy roads and neighbouring properties”*. This is to prevent risking either injury to persons or damage to properties. The applicant states that the introduction of the proposed netting would not lead to an intensification of use of the MUGA; it would continue to be used only by the current students and would not be available to the community outside normal school hours of operation.

In light of the above, I am satisfied that there is a need for the proposed netting at the school. The proposal would reduce the likelihood of damaging neighbouring properties or harm to people.

### **Design and Visual Impact**

The proposed netting would not increase the height of the MUGA and would not be visible from the public footpath or the residential properties located along the southern boundary. The existing MUGA benefits from screening from a mature hedgerow, trees and by a red brick boundary wall which runs

adjacent to Breaston Footpath E2/12/1. The proposed colour of the netting is black to reduce the visual impact of the development. The school is not within a Conservation Area and does not impact upon the setting of a listed building.

I consider the design and visual relationship of the proposal to be appropriate in the educational context of the school. The netting would be well screened and would not, in my opinion, be visible from dwellings or the public highway. I do not consider the proposed development would have a significant visual impact on the amenity of the area. I am satisfied that the development would accord with Policy 10 of the ECS and the NPPF in respect of design and visual impact.

### **Noise Impact**

Concerns have been raised by a local resident about the potential impact of noise from the MUGA at the school. The application does not refer to any increase in pupil numbers. The applicant has stated that the proposal would not result in an intensification of use of the MUGA, which is only used by students.

Whilst I acknowledge the concerns raised, I am of the view that the installation of the netting would be unlikely to result in any significant increase in the use the MUGA or the times when the MUGA would be utilised.

I, therefore, do not consider that the installation of netting would lead to any significant increase in noise levels generated from this school site over and above the existing levels. I am satisfied that the netting would not have an adverse impact on the amenity of nearby residents and would accord with the requirements of the ECS Policy 10 and the NPPF.

### **Conclusion**

I am of the opinion that the proposed netting would be appropriately located and the need is justified. After taking into consideration the concerns raised by the representation, I do not consider that the netting would result in any adverse noise or visual impacts.

I am satisfied that the proposal would accord with the policies of the development and the NPPF and, therefore, this application is recommended for approval, subject to conditions to ensure conformity with details provided.

(3) **Financial Considerations**      The correct fee of £234 has been received.

(4) **Legal Considerations**      This is an application submitted under the terms of the Town and Country Planning General Regulations 1992 for development which the Authority itself proposes to carry out.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

- (5) **Environmental and Health Considerations** As indicated in the report.

### **Other Considerations**

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

- (6) **Background Papers** File No. 8.717.19  
Application Form and Block Plan received 19 October 2018. Site Location Plan, Elevations and Design and Access Statement received 29 October 2018. 2018 12 13 Additional Information 02 CD8/10/18/65 received 13 December 2018.

Consultation Responses: Derbyshire County Council - Built Conservation and Design Quality dated 5 November 2018, Breaston Parish Council dated 14 November 2018, Erewash Borough Council - Planning Services Division dated 23 November 2018.

Representation dated 26 November 2018.

- (7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permission be **granted** subject to the following conditions:

- 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

- 2) Notice of the commencement of the development shall be provided to the County Planning Authority at least seven days prior to the start of works on site.

**Reason:** To enable the County Planning Authority to monitor the development in the interests of the amenity of the area.

- 3) The development shall take place in accordance with the details in the 1APP form dated 11 October 2018, Design and Access Statement, 2018 12 13 Additional Information 02 CD8/10/18/65 and the following drawings:

- Drawing entitled “Block Plan”.
- Drawing entitled “Elevations”.
- Drawing entitled “Site Location Plan”.

**Reason:** To enable the County Planning Authority to monitor the development in the interests of the amenity of the area.

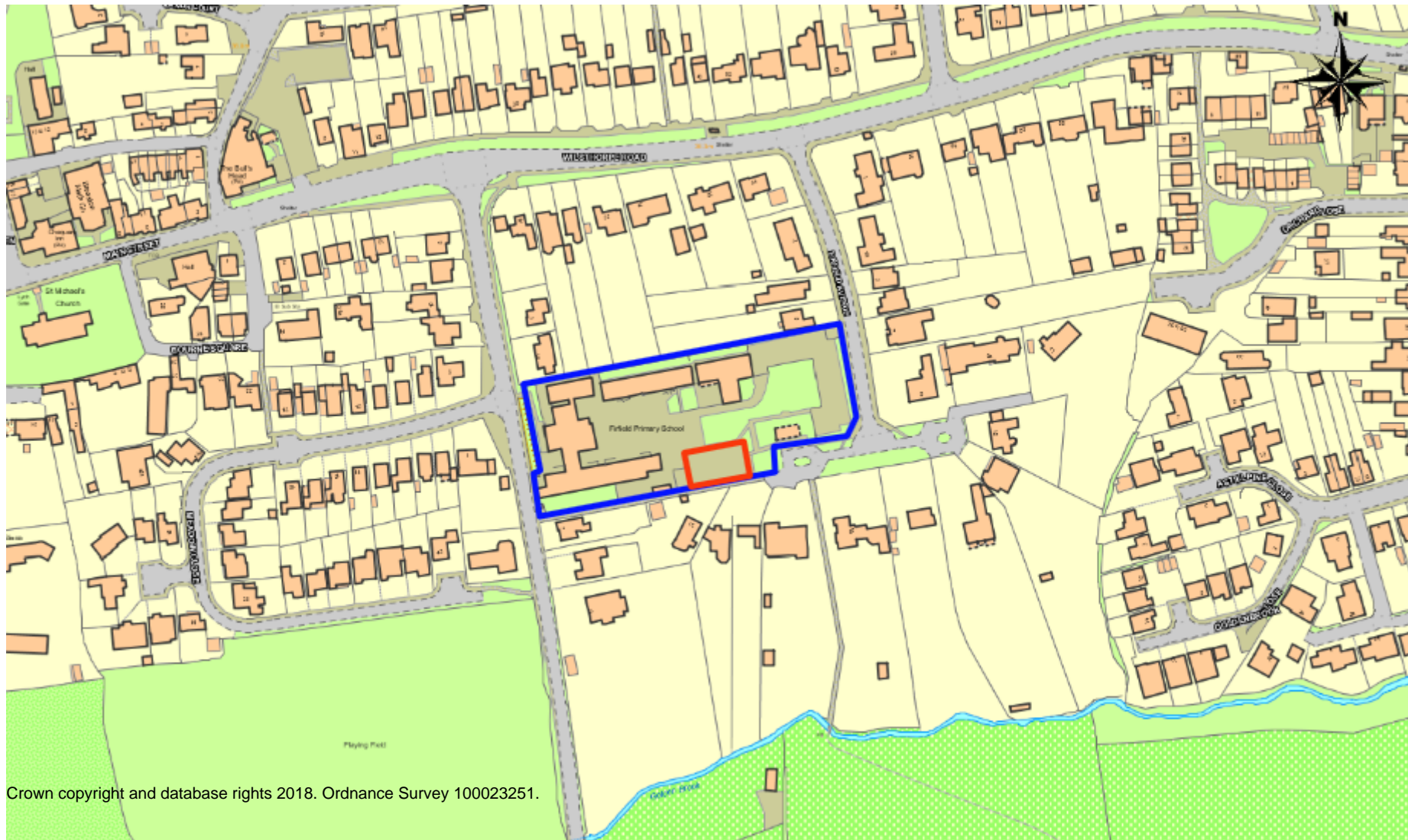
**Statement of Compliance with Article 35 of the Town and Country (Development Management Procedure) (England) Order 2015**

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

**Footnote**

- 1) This permission, granted under the terms of Regulation 3 of the Town and Country Planning General Regulations 1992, is for the sole benefit of Derbyshire County Council and can only be implemented by that Authority.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**



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11-Dec-2018