

Agenda Item No. 4.1

**DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE**

13 July 2015

Report of the Strategic Director – Economy, Transport and Environment

- 1 PROPOSED INSTALLATION OF BALL PLAY EQUIPMENT AND BALL CATCH FENCING AT LITTLE EATON PRIMARY SCHOOL, ALFRETON ROAD, LITTLE EATON
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CD8/0415/5**

8.298.22

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

(2) **Information and Analysis** The application proposes the installation of two metal net and hoop structures with backboards, each with two attached 'L' shaped end walls, in the playground at Little Eaton Primary School, Alfreton Road, Little Eaton. The hoops would be positioned towards the northern end of the playground, with one located adjacent to the school building and the other at the boundary with a property on Highfield Road. Both would measure 2 metres wide and 3.6 metres high. It is also proposed to provide ball catch fence or net which would be approximately 11 metres in length and would be positioned on top of the existing boundary wall, to the rear of a property on Highfield Road, giving an overall height of approximately 4 metres.

Consultations

Local Member

Councillor Hart has been consulted with a request for comments by 13 May 2015.

Erewash Borough Council

No objections.

Publicity

The application has been advertised by site notice with a request for observations by 22 May 2015.

As a result of the publicity, one letter of objection has been received in relation to the visual impact of the proposed fencing. The points raised are considered under the 'Planning Considerations' section below.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the Erewash Core Strategy (Adopted March 2014). Other material considerations for the determination of this application include such statements of Government policy in the National Planning Policy Framework (March 2012).

The principal planning policies relevant to this grant of planning permission are:

Erewash Core Strategy

Policy A: Presumption in Favour of Sustainable Development.

Policy 10: Design and Enhancing Local Identity.

The key planning considerations for this development are:

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

Play Equipment

The application states that the proposal is required to improve and enhance the outdoor sports provision for the children at the school. This is an amended application which addresses a number of points raised by local residents to a previous similar submission, including the addition of a chainlink, ball catch fencing which is considered in more detail below.

The proposed play equipment includes two hoop and backboards, measuring 2 metres wide by 3.6 metres high and constructed of a metal frame with powder coated, mesh infill coloured black (RAL 9005), or a similar recessive colour in order to make them as visually recessive as possible. One hoop would be located adjacent to the rear of the school building and the other would be located on the opposite side of the playground, to the rear of the property Highfield Road.

Each net would also have two 'L' shaped end walls positioned behind in order to form an enclosure. Each wall would be 2.4 metres high by 2.5 metres wide and extend out by 1.25 metres at one end. Each wall would be constructed of a powder coated metal frame and with powder coated, mesh infills and would be coloured black (RAL 9005), or a similar recessive colour in order to make them as visually recessive as possible.

I am satisfied that there is a need for the installation of the play equipment and that it would not have a significant adverse visual impact.

Ball Catch Fencing

The application also proposes the installation of 11 linear metres of 2 metres high chainlink fencing to be placed on top of the existing wall, along the boundary with the property on Highfield Road. I note that the fencing has been included in order to address previous concerns that the proposed play equipment would lead to an increase in the number of balls and other play equipment going over the wall and causing a nuisance for neighbours.

One objection has been received to this element of the proposal on the grounds of visual impact. The proposal has been revised in response to the objection so that the fencing is now only proposed to be to the rear of a single property on Highfield Road. However, the objection still remains on the grounds that “*[the] remaining fence will still be a very prominent feature bearing over our property and will be very visible from the rear of our house and our garden.*”

The orientation of the proposed net and hoop would be alongside the boundary of a residential property and this would potentially increase the frequency of balls going into the neighbouring garden. On that basis, I consider that there needs to be a means of catching balls above the height of the wall, to avoid undue disturbance to adjoining residential properties. Having assessed the scale of the ball catch fencing proposed to be installed, I consider that the scale would involve an unacceptable visual impact which, on balance, would outweigh the benefits, unless the installation is required to include a mobile element.

Since there is a need for a structure to deal with balls in the air near the boundary at this location, but I am concerned that a fixed structure in position to this height would not be appropriate here. This concern has been raised with the applicant and the headteacher of the school. It is understood they are happy to submit a scheme to overcome this problem. On that basis, I recommend a condition to require a scheme which would include an appropriate ball catch arrangement with a mobile element be submitted for the approval of the County Planning Authority. I have recommended that this is submitted within three months from the date of this permission, to allow the applicant to design an appropriate scheme.

Highways

No public rights of way would be affected and there are no highways objections.

(3) Financial Considerations The correct fee of £195 has been received.

(4) **Legal Considerations** This is an application 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 and transport considerations.

(6) **Background Papers** File No. 8.298.22
Application documents submitted by the Director of Property dated 15 April 2015, as amended on 27 May 2015. Consultation responses from Rights of Way dated 7 May 2015 and Erewash Borough Council dated 13 May 2015.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission is **granted**, subject to the following conditions:

- 1) The development shall be begun before the expiration of three years from the date of this permission.

Reason: The condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the application documents dated 15 April 2015, as amended on 27 May 2015, or as otherwise amended by conditions of this permission.

Reason: To clarify the details approved.

- 3) No fencing shall be erected other than in accordance with a scheme submitted and approved under Condition 5 below.

Reason: In the interests of protecting local amenity.

- 4) The applicant shall notify the County Planning Authority when the play equipment has been installed.

Reason: To monitor the implementation of the proposal and the submission of an alternative ball catch arrangement.

- 5) Within three months of the date of this permission, a scheme of details of the ball catch fencing structure to be installed and of arrangements for its raising and lowering shall be submitted for the written approval of the County Planning Authority. The scheme shall include specifications for the location of the structure, the materials colour and dimensions for each part of the structure, a design details whereby those parts of the structure which would be positioned so as to catch balls will be mobile so that the top of the structure will be lowerable to a position that does not exceed the height of the top of the existing wall, and arrangements to ensure that the mobile parts of the structure are fully raised at the start of ball games sessions in the playground and fully lowered at the end of those sessions, and are kept in the fully lowered position at all other times.

The structure shall be installed in accordance with the scheme as approved under this condition within three months from the date of the approval and its mobile parts shall thereafter be raised and lowered in accordance with the arrangements for lowering and raising under the scheme as approved.

Reason: To promote a reduction in the potential incidence of disturbances from the escape of games balls into neighbouring gardens without causing an unacceptable impact on local visual amenity

Footnotes

- 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.
- 2) Attention is drawn to:
- i) Sections 7 and 8 of the Chronically Sick and Disabled Persons Act 1970; and
 - ii) Building Bulletin 91 'Access for Disabled People to School Buildings, Management and Design Guide' published in 1999 or any prescribed document replacing that code.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Title

Little Eaton Primary School - CD8/0415/5

