



Appeal Decision

Site visits made on 17 December 2019 and 20 May 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2020

Appeal Ref: APP/E2205/W/19/3238640

Ashford Hockey Club, Canterbury Road, Ashford.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ashford Hockey Club against the decision of Ashford Borough Council.
 - The application Ref 18/01140/AS, dated 30 July 2018, was refused by notice dated 15 August 2019.
 - The development proposed is outline application for the erection of 9 dwellings with access from Canterbury Road (with all other matters reserved), and change of use of land from agriculture to provide two football pitches on land at Ball Lane.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 9 dwellings with access from Canterbury Road (with all other matters reserved), and change of use of land from agriculture to provide two football pitches on land at Ball Lane at Ashford Hockey Club, Canterbury Road, Ashford, in accordance with application Ref 18/01140/AS, dated 30 July 2018, and the plans submitted with it including the site location plans 161219-P-001 rev A and 161219-P-002, and access plan EMC-2015-132-02, but subject to the attached schedule of conditions.

Preliminary Matters

2. Outline planning permission was sought with all matters reserved except for access. Appearance, landscaping, layout and scale are matters for future consideration. However, the site location plans show the broad location of the residential development and the replacement football pitches. Insofar as matters other than access are concerned, I have taken these into account as indicative plans for the purpose of this decision.
3. The works involving the creation of new football pitches form part of the outline planning application. This was reflected in the information submitted at the time of the original planning application to the Council¹. Consequently, any approval must be subject to the standard time limit conditions pertaining to outline planning permissions reflected in section 92 of the Town and Country Planning Act 1990. I have determined the appeal on this basis. Should the appellant wish to change how the permission is implemented, this is a matter that should be followed up with the local planning authority.

¹ Including the planning application form dated 30 July 2018, supporting letter and planning statement.

4. I have used the description of development from the Council's decision notice, as it accurately reflects the scope of this outline planning application. This is also the description used by the appellant on the appeal form.

Main Issues

5. The main issues are
 - i) Whether or not the location is appropriate for the residential development proposed, having particular regard to its proximity to services and facilities and the effect on the character and appearance of the area; and
 - ii) Whether or not the loss of the existing sports facilities are justified.

Reasons

Location

6. The proposed residential element of the scheme would comprise 9 dwellings, which would sit adjacent to the Canterbury Road. The indicative plans show that they could broadly appear contiguous with the existing residential properties to the south. They would face other existing residential development on the eastern side of this main road.
7. The site is over 3 kilometres away from the town centre of Ashford. However, it falls within Kennington, which can reasonably be described as a suburb. This includes a range of services and facilities, including schools and various shops, clustered around the Faversham Road, the Street and Ulley Road. I observed that these can be easily accessed on foot from the Canterbury Road, along a reasonably level path. Whilst in some cases the distance would exceed 800 metres due to the dispersed nature of the services and facilities in question, considered as a whole they would fall within reasonable walking distance of the proposed housing development.
8. There are also bus routes serving the area around the site, with a bus stop sited on the Canterbury Road. As such, future occupants of the development would also have the option of travelling by bus around Ashford and further afield, as an alternative to the car. Consequently, this is a reasonably accessible location for the residential development proposed. Future occupants of the housing would not be reliant on the car to access everyday services. The proposal would not therefore result in a disproportionate amount of additional vehicular movements.
9. The Council's submissions refer to the Canterbury Road site having a rural character. Whilst it does have an open, undeveloped appearance due to its use for sport and recreation, it abuts a busy road, with residential development on two of its sides. Policy HOU5 of the Ashford Borough Local Plan (2019) ("Local Plan") is particularly relevant in these circumstances. It specifically permits residential development adjoining or close to the existing built up confines of Ashford, where certain criteria are met.
10. As the Canterbury Road site would adjoin the existing built environment associated with Ashford, this policy is clearly engaged here. The overall density of residential development envisaged would be broadly similar to that found in the surrounding built environment. The remaining playing fields associated with

the Hockey Club, which extend to the main road, would continue to provide a buffer of open land between the settlement of Ashford and the agricultural land beyond. Consequently, the transitional character and appearance of the Hockey Club site, as described by the Council in its submissions to this appeal, would be preserved.

11. The detailed design of the development would be considered at reserved matters stage. However, the arrangement of housing shown on the indicative plans would broadly follow the appearance of existing housing facing the Canterbury Road. It is therefore likely that proposals could be advanced that ensure the buildings sit sympathetically within the landscape, are consistent with local character, have appropriate regard to the setting of the nearest settlement, and retain an appropriately sized and designed landscape buffer to the surrounding open land.
12. Considering the other relevant criteria set out in policy HOU5, for the reasons discussed previously the site is within easy walking distance of basic day to day services and accessible to public transport, and there are no significant constraints that would prevent cycling. At 9 units, the scale of development is clearly proportionate, given the overall size of Ashford and the facilities and services it contains.
13. The residential access on the Canterbury Road would open out on to a busy road with fast moving traffic, and the entrance sits close to a curve in the road. However, under the proposals appropriate visibility splays would be provided, improving visibility around the bend. The vehicle entrance would not directly conflict with any existing vehicle access routes off the Canterbury Road, including East Mountain Lane and Orchard Lane. The total number of cars entering and leaving the access road would be limited to that associated with 9 dwellings, so the proposal would not have any significant impact on the levels of congestion around the site, even taking account of other planned development in the surrounding area. Overall, a safe and suitable access would be achieved.
14. As such, the proposal complies with policy HOU5. The development of this open and undeveloped land is justified as it is supported by a planning policy that encourages residential development that adjoins the settlement of Ashford. It would not detract from the prevailing character and appearance of the area and the location is appropriate for the residential development proposed, given its proximity to services and facilities. The proposal would combine with a well-established settlement and would not comprise isolated development in the countryside. It also complies with policies SP1, SP6 and ENV3a of the Local Plan which, amongst other things, seek to focus development at accessible and sustainable locations, whilst promoting design which complements landscape character.

Sports Facilities

15. The proposed residential development would result in the loss of a playing field. Such facilities appear to be in high demand in Ashford, which is reflected in various studies which support the retention and improvement of the existing facility. The field in question is currently used by a junior football team. However, two new football pitches would be provided as part of this scheme, on land located to the other side of Ball Lane.

16. The existing playing field is set well away from the car park and clubhouse. Accessing it involves walking across other playing fields. The route from the car park and clubhouse to the proposed replacement pitches involves crossing a road and following a partially unmade footpath, but the actual physical distance between the clubhouse and the pitches would be broadly similar to the existing situation. As such, there would be no significant deterioration in the level of supporting facilities provided to users of the playing fields.
17. Whilst players would need to cross Ball Lane to get from the clubhouse to the new pitches, this is a quiet no-through road which primarily serves as an access point for a limited number of residential properties and the Hockey Club. It essentially functions as a shared surface for cars and pedestrians. In this context, vehicle speeds are not high. The visibility across Ball Lane, between the hockey club entrance and the path to the new pitches would be appropriate.
18. Personal safety whilst accessing and playing sport is primarily a matter for the individuals concerned. Where children are using the new pitches, it would be the responsibility of adults to ensure that they are appropriately supervised. Neither the road nor the nearby stream represents an unusual or significant safety risk. Given the location of the existing playing fields within the Hockey Club complex, the proposed replacement facility would be no less accessible for people with limited mobility and the emergency services than the existing pitch.
19. The new pitches would be located within an area at risk of flooding, within flood zones 2 and 3, whereas the existing pitch falls within zone 1. Even so, actual flooding events would be likely to be very infrequent. Furthermore, the detailed design of the pitches would be the subject of future reserved matters applications: the layout could adopt a drainage system which improves the functionality of the pitch at times of heavy rainfall. The appellant indicates they intend to construct such a system, in order to meet Football Association Performance Quality standards².
20. This would clearly represent an improvement over the existing position, which could be secured through the development process. In consequence, the overall utilisation of the pitches and the playing experience on the new pitches is likely to be equal or better to the existing situation, despite its location within a flood zone. The proximity of the new pitches to existing trees would not adversely affect the playing conditions.
21. Policy COM2 of the Local Plan seeks to ensure that existing sports land is not redeveloped unless any loss would be replaced by equivalent or better provision in terms of quality and quantity in a suitable location. The alternative facilities proposed meet this test and the location is suitable. As such, the relevant planning policy criteria is met and the proposal does not conflict with the development plan, in this respect. The loss of the existing sports facilities is justified and granting planning permission would not result in an unacceptable shortfall of community facility provision or otherwise be detrimental to the amenity of the area. There is no significant conflict with policy ENV6 of the Local Plan, which, amongst other things, seeks to ensure development contributes to an overall flood risk reduction.

² As set out in paragraph 4.16 of the appellants appeal statement.

Other Matters

22. I have considered all the objections and supporting comments received in relation to this development by interested parties and statutory consultees. These raise a number of other matters to those discussed above, including the following issues:
- i) Character and Appearance – new playing fields*
23. The land on which the new playing fields would be sited currently comprises grazing land, contiguous with open countryside. It is regarded as the best and most versatile land for agriculture. It is clear from the representations received that it has significant amenity value for local residents, falling adjacent to a well-used public right of way.
24. This part of the site is relatively flat, and minimal levelling would be needed to achieve a good playing surface. Whilst the detailed design of the pitches would be agreed at reserved matters stage, given the nature of the proposed use it is reasonable to assume that it will retain an open and green appearance which complements that of the surrounding rural landscape. The total loss of agricultural land would be of minimal significance: it would not be of a scale that materially impacts on food production.
25. As noted previously, the new playing fields would be located a similar distance away from the clubhouse to the existing pitches, so facilities and supporting infrastructure would be easily accessible from the site of the new playing fields. It is therefore unlikely that buildings and other visually significant structures would be erected around the new pitches.
26. The proposed replacement pitches fall within close proximity to two Grade II listed buildings along Ball Lane, the Apple Cottage and the Old School Bungalow, and near to the Kennington and Ball Lane Conservation Area. The significance of the listed buildings arises from their well-preserved appearance with the oldest structure dating back to the 18th Century, thus predating much of the surrounding built environment. The land to the north of these buildings is currently open and undeveloped, for the reasons discussed previously this is likely to be retained when proposals are advanced at reserved matters stage. As such, there would be no harmful effect on the setting of these heritage assets.
27. Considering the Conservation Area, this comprises a collection of buildings of high architectural quality set around four different roads. Within this area, Ball Lane has a more spacious and semi-rural character. The new football pitches would be located well away from the boundary of the Conservation Area. The relevant land around the Conservation Area would largely remain open, as at present. Consequently, the proposal would not have any adverse effect on the setting of the Conservation Area. There is no conflict with the relevant statutory duties set out in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which require that the setting of designated heritage assets are preserved, where new development is proposed.
28. To conclude on this issue, the loss of the agricultural land around Ball Lane is acceptable and this part of the proposal would not in principle result in any harm to the character and appearance of the area, including the rural landscape and nearby heritage assets. However, this is subject to an

acceptable design being achieved in relation to the football pitches, and there is a reasonable likelihood that this will occur at reserved matters stage.

ii) Living conditions of existing residents including human rights concerns

29. Concerns are expressed about the effect of the development on the living conditions of existing residents in the surrounding area. However, the use of the land for residential purposes and sport is broadly consistent with the existing type of development found within this part of Ashford. Consequently, the proposal would not, in principle, lead to any harmful loss of outlook. Further consideration about the impact of the proposed built development on neighbouring residential properties would be undertaken at reserved matters stage.
30. The amount of additional artificial light arising from cars going in and out of the new residential development would be insignificant. The additional vehicle movements on the Canterbury Road would not lead to visual intrusion, light pollution, or any unacceptable loss of privacy.
31. The new football pitches would be set well back from existing residential properties along Ball Lane. Any overlooking towards residential properties arising from the access to and use of the pitches for sport would be insignificant, given the distance from the respective buildings. Any noise generated by the use of the football pitches would be of a low level. The development would not detract from the quality of the residential environment enjoyed by these properties. Overall there would be no harm to the living conditions of existing residents, in any respect.
32. Representations were made to the effect that the human rights of existing residents, including the occupants of Ball Lane, would be violated if the appeal were allowed. However, I have found that the development would not cause unacceptable harm to the living conditions of these residents. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under the First Protocol.

iii) Highways and traffic

33. I have already found that a safe and suitable access would be achieved in relation to the Canterbury Road site, and the pedestrian route from the Hockey Club to the new pitches is appropriate. Concerns are also raised about the wider effect of the development on highway safety along Ball Lane, which is a narrow access road with limited visibility in places. However, given that the pitches are being relocated and there is no significant expansion of this facility, there would be no significant increase in parking or change to the overall volume of traffic that accesses this road in connection with the Hockey club. There is no harm in this respect. Concerns about disruption arising from construction works can be managed through appropriate planning conditions. The proposal is acceptable in highways and traffic terms, in all respects.

iv) Long term retention of sports facilities

34. Concern is expressed regarding the motivations of the appellant and the circumstances in which the proposal has been brought forward. However, the proposal must be assessed on its planning merits. These are not reasonable grounds to withhold planning permission. Whilst the sale of the land could result in investment in the hockey club, such financial investment is not

necessary to make the proposal acceptable in planning terms. In this context, it would not be reasonable to try and control how any revenue from the sale of land is used, through planning conditions.

35. There is an understandable desire to secure the long-term use of the fields on Ball Lane for the current users of the pitches. However, as appropriate replacement sport facilities are being provided, such controls over the future use and management of private land are not on this occasion necessary to make the proposal acceptable in planning terms. Planning conditions can, however, be used to ensure that the pitches are provided and built to a satisfactory standard before the residential development begins.

v) Other issues

36. Reference is made at various points by interested parties to historic appeal decisions in relation to this site. However, the proposal must be determined against the current policies set out in the recently adopted Local Plan.
37. It is suggested that there are other existing sports facilities in the area around the site that could have housed the relocated football users, and that alternative funding streams could have been used to upgrade the hockey club. However, I must make this decision on the proposal before me; it would not be reasonable to consider hypothetical alternatives. Nor would it be reasonable to seek to restrict further residential or other development on or around the site; such proposals would normally require planning permission and would be considered on their planning merits. The new vehicular access is identified as serving the proposed residential development, I have dealt with the appeal on this basis.
38. Interested parties raise concerns about the adequacy of the existing infrastructure, including schools, to accommodate the development. However, the supporting evidence on this point is limited. As the number of dwellings being provided here is limited to 9, the development would not place significant additional pressure on existing infrastructure. Planning permission should not be refused for this reason.
39. A range of concerns are expressed about the effect of the development on ecology, including protected species. However, the total amount of earthworks necessary to construct the football pitches would be limited given that, as noted previously, the land in question is relatively level. The planning application was accompanied by ecological surveys which considered the potential for protected species, and the Council and its specialist ecological advisors did not object to the development on these grounds. A management plan, based on up to date survey information, can be secured by planning condition. Subject to this, there would be no significant harm to ecological interests as a consequence of this development. Whilst it is likely that trees will be removed, new planting could take place as a consequence of the landscaping of the site. This would be considered further at reserved matters stage.
40. The existing bus stop on the Canterbury Road may need to be moved to facilitate the new access. However, that would be a matter to be agreed between the appellant and the relevant authority. It is not a constraint that would justify withholding planning permission. The proposal would not have

any significant harmful effect on footpaths and other rights of way in the area surrounding the site.

41. Whilst it is suggested that the housing being provided would fall at the higher end of the property market, it would nonetheless add to the overall supply of housing in the Borough, benefitting the housing market as a whole. The proposal complies with the National Planning Policy Framework ("the Framework") which, amongst other things, seeks to protect sports facilities, recognise the intrinsic character and beauty of the Countryside and boost the supply of housing whilst achieving well designed places with a high standard of amenity. The proposal comprises sustainable development, which makes effective use of land.

Conditions

42. Outline planning permission was sought. As noted previously, the detailed design of the scheme will be considered at reserved matters stage. In addition to the standard conditions to this effect, a phasing condition is also necessary to ensure that replacement pitches are provided before residential development commences, to avoid the loss of sports facilities within the Borough.
43. Specific conditions are also necessary to ensure that a safe and suitable access is achieved in relation to both parts of the site; to protect the living conditions of existing residents through the construction works; to make provision for the investigation of archaeology given the historic interest in the site; to ensure provision is made for appropriate and sustainable drainage systems; to ensure a satisfactory standard of development in all respects and finally to ensure that ecological management and biodiversity enhancement measures are provided to ensure the effect on ecology is acceptable.
44. It will be clear from my reasoning above that the replacement playing fields are acceptable on the basis that they have an open appearance that complements the surrounding rural area. As such, it is exceptionally justified on this occasion to remove permitted development rights that would potentially allow the enclosure of or erection of buildings on this part of the site. This means that planning permission would be required, were such works to be desired in the future. A condition also restricts the use of external lighting and public announcement systems on this land, to protect the rural character of this area and the living conditions of existing residents.
45. Conditions that otherwise seek to impose further controls on how the dwellings are used, including through the further removal of permitted development rights, are not necessary to make the proposed development acceptable in planning terms. It would not be reasonable to seek to impose further controls on vehicular movements in the surrounding area. Such measures are not necessary to make the proposal acceptable in planning terms.
46. A number of other conditions were suggested by the Council, statutory consultees and interested parties. In most cases they concern matters that can be addressed in future reserved matters applications. Planning conditions can otherwise only be imposed where they meet the 6 tests set out in paragraph 55 of the National Planning Policy Framework and relevant planning legislation³. The conditions imposed here are limited to those that meet these

³ Including Section 92 of the Town and Country Planning Act 1990

tests, and in some cases the wording of the conditions initially suggested has been amended to ensure this is the case. Neither the Council nor the Appellant raised any objection to the principle of the conditions that have been imposed.

Conclusion

47. The proposal complies with the development plan and there are no other considerations that outweigh this finding. The appeal should be allowed.

Neil Holdsworth

INSPECTOR

SCHEDULE OF CONDITIONS

1. Approval of the details of the layout, scale, landscaping, and appearance (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before any development commences and the development shall be carried out as approved.
2. Application for approval of the Reserved Matters in relation to all parts of the scheme shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall be begun no later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.
4. The reserved matters submitted under condition 1 shall include the following details (this is not an exhaustive list):
 - i) The design and layout of the proposed football pitches; including details of the existing and proposed levels including spot levels and sections. This must follow a detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and a detailed scheme to address any identified constraints. The submitted details should include a written specification of the proposed soils structure, drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.
 - ii) Details of highways infrastructure within the development, including works necessary to connect residential dwellings to the roads within the development;
 - iii) Details of vehicular and cycle parking, waste storage, electric vehicle charging points and telecommunications infrastructure;
 - iv) Details of trees, hedges and any other existing landscaping features to be retained;
 - v) Boundary Treatments;
 - vi) Water efficiency measures within the dwellings;
 - vii) External lighting across the development.

Phasing

5. The residential development hereby approved shall not begin until the replacement playing fields have been completed in accordance with the details approved in response to relevant conditions attached to this planning permission, and made available for use. No work shall take place on the residential development hereby approved until a scheme of completion in relation to the replacement football pitches has been submitted to and approved in writing by the Local Planning Authority.

Specific conditions relating to Access

6. No dwelling shall be occupied until the vehicular access, associated visibility splays and footway connection shown on drawing number 161219-P-002 and hereby approved have been provided in accordance with that plan. The access and visibility splays shall thereafter be retained in accordance with those plans and the area within the visibility splays shall be permanently maintained with no obstructions over 0.9 metres above carriageway level within these splays.
7. The replacement football pitches must not be brought into use until details of the siting, location and design of lockable bollards to prevent general vehicular access along the Public Right of Way (route code AU12) have been submitted to and approved in writing by the Local Planning Authority. The approved bollards shall be erected prior to the pitches being brought into use and retained thereafter.

Building Works

8. No site clearance, preparation or construction works shall take place, other than between 0730 to 1800 hours (Monday to Friday) and 0730 to 1300 hours (Saturday) with no working activities on Sunday, Public and Bank Holidays.
9. No residential development including any works of demolition or preparation works prior to building operations shall take place on site until a Construction and Transport Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Construction and Transport Management Plan shall include, but not be limited to the following:

- (a) Parking and turning areas for construction vehicles and site personnel
- (b) Provision of wheel washing facilities

The approved Construction and Transport Management Plan shall be adhered to throughout the duration of the construction period.

Archaeology

10. No development, with the exception of the formation of access and installation of lockable bollards as described in condition 7, shall take place until the applicant, or their agents or successors in title, has secured the implementation of archaeological field evaluation works in accordance with a specification and written timetable which has previously been submitted to and approved in writing by the Local Planning Authority. This field evaluation will be specific to the area of the application site being developed. Once the field evaluation is completed, a report must be submitted to the Local Planning Authority for written approval. This must specify:

- i) any safeguarding measures, identified in the evaluation as necessary, to ensure preservation in situ of important archaeological remains and/or
- ii) details of any further archaeological investigation to be carried out in the course of the development.

The development must be carried out in accordance with these details. No works to the ground, other than those necessary for archaeological evaluation, shall take place until the completion report has been approved in writing by the local planning authority.

Ecology and Biodiversity

11. No residential development shall take place above foundation level until measures to enhance biodiversity on the Canterbury Road part of the site have been submitted to and approved in writing by the Local Planning Authority. This shall include the installation of bat and bird nesting boxes along with provision of planting of native species. The approved details will be implemented prior to the first occupation of any of the dwellings hereby permitted and thereafter retained.
12. No development other than works to provide access to the site may occur until an ecological management plan based on up to date survey information, specific to the area of development being carried out has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the details approved under the terms of this condition.

Drainage and Surface Water Management

13. Residential development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development can be accommodated and appropriately disposed of without increasing flood risk. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters. The drainage scheme shall be implemented in accordance with the approved details prior to first occupation of the development or in accordance with an implementation schedule agreed in response to this condition.
14. Unless otherwise specified in an implementation schedule submitted in relation to condition 13, no dwelling hereby approved shall be occupied until a Verification Report pertaining to the surface water drainage system approved under the terms of condition 13, carried out by a suitably qualified professional, has been submitted to and approved in writing by the Local Planning Authority. This must demonstrate the suitable operation of the drainage system such that flood risk is appropriately managed.
15. No dwelling hereby permitted shall be occupied until an operation and maintenance plan for the proposed sustainable drainage scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details approved under the terms of this condition.
16. Prior to the commencement of the residential development details of the proposed means of foul water disposal and the maintenance of such; including any measures necessary to protect public sewers, shall be submitted to and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the details approved under the terms of this condition and shall be completed before occupation of any dwelling and thereafter retained and maintained as such.

Other Conditions

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no walls, fences or other means of enclosure and no building as defined by Section 336 of the Town and Country Planning Act

1990, other than those specifically authorised in any reserved matters application following this grant of outline planning permission, shall be erected within the Ball Lane part of the site area (where the replacement sports pitches are proposed) without the prior approval in writing of the Local Planning Authority.

18. No external lighting or public announcement system, other than that specifically approved under the terms of any reserved matters submitted in response to this outline planning permission, shall be operated on the site of the proposed replacement sports pitches without the prior written consent of the Local Planning Authority.

END OF SCHEDULE