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## Appeal Decision

Site visit made on 3 May 2022

**by Hannah Ellison BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 July 2022**

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**Appeal Ref: APP/Z4718/W/22/3291359**

**Colne Valley High School, Gillroyd Lane, Linthwaite, Huddersfield HD7 5SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Cath O'Connor, (Colne Valley High School), against the decision of Kirklees Metropolitan Council.
  - The application Ref 2021/70/93796/W, dated 27 September 2021, was refused by notice dated 21 January 2022.
  - The application sought planning permission for the replacement of existing redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path, without complying with a condition attached to planning permission Ref 2018/62/93872/W, dated 11 April 2019.
  - The condition in dispute is No 4 which states that:  
*The hereby approved 3G synthetic turf pitch shall not be used outside the following hours 8.00am – 6.30pm Monday to Saturday with no use on Sunday and Bank holidays.*
  - The reason given for the condition is:  
*In the interest of amenities of the nearby occupiers of the residential properties on The Rock/Gillroyd Lane, west of the site, to prevent noise (through voice and ball strike) and light pollution at unsocial hours and to comply with Policies PLP24 and PLP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.*
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Notwithstanding the description of development included in the banner heading above, which is replicated on the application form, decision notice and appeal form, from the submitted evidence it is clear that the appellant also wishes to vary condition No 5 of permission ref 2018/62/93872/W. This condition concerns the hours of operation of the floodlighting for the pitch. However, the Council has made clear that it only considered the merits of varying condition No 4 during the course of application ref 2021/70/93796/W. In the interests of procedural fairness, I have also dealt with this appeal in the same manner and have not considered the merits of varying condition No 5.

### Background and Main Issue

3. Planning permission was granted for a 3G synthetic turf pitch and ancillary features subject to a number of conditions. Condition No 4 placed restrictions on the hours and days of use of the pitch. It was attached in the interests of protecting the living conditions of nearby occupiers.

4. The appellant sought to amend these hours so as to allow for use of the pitch between 0800 and 2130, seven days a week. I note that during the course of the application the appellant, through discussion with the Council, amended the hours of use they are seeking permission for. I shall address this matter below.
5. The main issue is therefore the effect of varying condition No 4 on the living conditions of nearby occupiers, with particular regard to noise and disturbance.

### **Reasons**

6. The appeal site is located in the grounds of Colne Valley High School and relates specifically to the 3G synthetic turf pitch and ancillary features located towards the south-west corner of the school site. The pitch is sited to the rear of and elevated above a number of residential properties fronting The Rock/Gillroyd Lane. An acoustic fence and mature vegetation separate the pitch from the nearest residential properties.
7. The pitch has permission to be used between 0800 and 1830 Monday to Saturday and not at all on Sundays and Bank Holidays. The appellant has indicated that these hours are restrictive and prevent any substantial use of the pitch by the community and local sports clubs.
8. During the course of the planning application, the Council advised that the hours of 0800 to 2000 Monday to Friday, 0800 to 1830 on Saturdays and no use on Sundays and Bank Holidays would be agreeable. The Council stipulated that those hours of use would be for a temporary period in order to monitor the effect of extended hours. However, the appellant advised that they could not agree to those hours as they would not meet the needs of the community. As such, they have subsequently requested that the pitch be used between 0800 to 2100 Monday to Friday, 0800 to 18.30 on Saturdays and Sundays and no use on Bank Holidays.
9. The original application was supported by a Noise Impact Assessment<sup>1</sup> (the 'NIA') which indicated that the original proposal would ensure appropriate noise levels for nearby gardens and habitable rooms. The NIA does however acknowledge that noise levels may exceed the stipulated criteria at times and moreover, it did not consider the use of the pitch during the hours now sought. The NIA also did not take into account the current conditions of the appeal site, namely any specific effects of the acoustic boundary. As such, there is no conclusive evidence before me to indicate that the noise levels which could be generated by the use of the pitch during the extended hours would be compatible with existing noise levels in the evenings and weekends, when background noise levels are likely to be lower.
10. Furthermore, the appellant has indicated that local demand for the pitch is high thus it is likely that it could be in use for considerable periods throughout the day and over consecutive days. I also note that the pitch could be used in a variety of different configurations and levels of intensity. These factors, combined with the uncertainty regarding noise, raises further concern in my mind that the proposal would result in disturbance to nearby residential occupiers, particularly late into the evening and over weekends when one could reasonably expect to have a degree of peace and quiet. As such, there would be very little respite for nearby occupiers compared to the existing approval.

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<sup>1</sup> New 3G Sports Pitch, Colne Valley High School, Acoustics, Noise Impact Assessment, Revision 3 – 17 January 2019 (Hoare Lea).

11. Therefore, given the information before me, I cannot confidently conclude that the proposed variation of the hours of use of the pitch would not result in unacceptable levels of noise and disturbance. As the proposal would therefore be likely to significantly harm and be detrimental to the living conditions of nearby residential occupiers it would conflict with Policies LP24 and LP52 of the Kirklees Local Plan Strategy and Policies (adopted 27 February 2019) and the relevant policies within Chapter 15 of the National Planning Policy Framework (the Framework). Collectively these policies seek, amongst other things, to ensure that developments maintain a high standard of amenity/quality of life for neighbouring occupiers.
12. Consequently, condition No 4 is reasonable and necessary in the interests of the living conditions of nearby occupiers and it should not therefore be varied. The lack of complaints from nearby occupiers does not alter my conclusion.

### **Conclusion**

13. I acknowledge that the increased hours of use proposed may benefit sports groups in the local community by providing more hours/days to use the pitch. I afford this matter moderate weight, given the importance the Framework places on achieving healthy communities by enabling and supporting healthy lifestyles through the provision of sports facilities.
14. However, I have found that the proposal would be likely to harm the living conditions of nearby occupiers, resulting in conflict with the development plan as a whole, to which I afford substantial weight. Therefore, material considerations do not indicate that a decision should be made other than in accordance with the development plan, and I conclude that the appeal should be dismissed.

*H Ellison*  
INSPECTOR