



Appeal Decision

Site visit made on 25 November 2024

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Appeal Ref: APP/X1355/W/23/3334300

Park View Upper School and Sixth Form, Church Chare, Chester-le-Street, Durham, DH3 3QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Lewis Pendleton of Park View Learning against the decision of Durham County Council.
 - The application Reference is: DM/22/03724/FPA.
 - The development proposed is described as: Proposed artificial grass pitch (AGP) with perimeter mesh fencing, 6 x 15m LED lighting columns, and hard standing areas, plus timber acoustic fencing.
 - This decision supersedes that issued on 29 April 2024. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Although Parkview Learning made a purported application for an award of costs with its new submissions, the previous costs decision, which made a partial award of costs, was not quashed and thus still stands. Whilst the costs regime does extend to the redetermination process, no allegation has been made in respect of unreasonable behaviour as part of the redetermination process. Consequently, there is no further costs application before me to decide.

Preliminary Matters

3. In December 2024 the Government published a revised version of the National Planning Policy Framework (the Framework). Although the views of the parties have not been sought on the revised version, there are only relatively minor changes to the wording of the relevant parts of the Framework which do not fundamentally change their requirements. Against this context I do not consider that the interests of any parties have been prejudiced by not seeking their views. I have determined the appeal having regard to the most recent version of the Framework.
4. The planning application form described the proposed development as “An Artificial Grass Pitch (AGP) with associated perimeter fencing, LED sports lighting, and hard standing areas.” The Decision Notice subsequently issued by the Council described the development as “Proposed artificial grass pitch (AGP) with perimeter mesh fencing, 6 x 15m LED lighting columns, and hard standing areas, plus timber acoustic fencing.” I have noted that the appellant adopted the Council’s description on the appeal form and also utilised that description for the purpose of the Section 288 challenge to the original appeal decision. The revised

description used by the Council is a more detailed description of the proposed development and I have therefore also used the revised description for the purposes of this decision.

Main Issues

5. The main issues in this appeal are:

- The effect of the proposed development on the living conditions of the occupiers of nearby residential properties with particular regard to noise, disturbance, light pollution, and traffic movements/parking;
- The effect of the proposed development on the safe operation of the highway in the vicinity of the appeal site; and
- The effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade I listed building, Church of St Mary and St Cuthbert [List Entry No: 1120955].

Reasons

6. The proposed development comprises replacing an existing grass pitch with a new artificial grass pitch (AGP) surrounded by a hardstanding area for spectators; the provision of welded mesh fencing around the AGP at 3 metres in height, rising to 6 metres behind the goal areas; the installation of six, 15 metre high, lighting columns fitted with light emitting diode (heretofore and hereinafter, LED) lighting units; and the installation of a 3 metre high, timber, acoustic fence along the southern perimeter of the hardstanding area. The submitted drawings show this latter located adjacent to the welded mesh perimeter fencing. The new pitch would be located in essentially the same position as the existing grass pitch on the playing field associated with the school.
7. It is proposed that, in addition to the use by the school, the facility would be available to the wider community outside of school hours, in the evenings and weekends. This is similar to the existing situation where a smaller, floodlit, artificial grass pitch, located a short distance to the west of the main grass pitch, is available in the evenings outside school hours, and the existing grass pitch is used on Saturday mornings. It is proposed that the AGP would be used between 0900 and 2130 on Mondays to Fridays, 0900 and 1800 on Saturdays, and 0900 and 1700 on Sundays. It is stated that current out of hours users of the smaller artificial pitch would transfer to the new AGP when it became available.
8. The proposal does not involve an increase in the existing on-site parking facilities at the school and it is intended that users of the facility outside of school hours would use the main school car park accessed from Church Chare and a smaller car park accessed from Roman Avenue. There is a community centre use located within the school buildings which also utilises the small car park.

Living conditions of nearby occupiers

Noise

9. The current use of the appeal site for sporting activities will give rise to noise. This would primarily be restricted to school hours, although I note that there is some out of hours use at present. It is to be expected that there will be some noise generated by the presence of sports facilities. Nonetheless, the appeal proposal would inevitably result in an intensification of the use of the site particularly on weekday evenings and at weekends. The primary noise source from the use of the AGP would be the voices of players and spectators. There may also be noise resulting from balls striking perimeter fencing. In addition, the intensified use of the site would potentially result in an increase in other noise sources, such as vehicle movements and the coming and going of spectators and players around the site. These latter points will be dealt with later in this decision.
10. The application was accompanied by a Noise Impact Assessment (NIA). This established, through a noise survey, that the typical background noise level in the area during the hours in which the proposed AGP would be in operation is 57dB $L_{A90,T}$.¹ The noise modelling in the NIA was based on the Sport England Guidance on AGPs². This guidance also sets out that, from data measured at a number of sites, a typical free field noise level of 58dB $L_{Aeq,1\text{ hour}}$ ³ at a distance of 10m from the sideline halfway marker is determined as representative for noise from an AGP.
11. The noise modelling indicates that at the front of the closest noise sensitive receptors (houses on Roman Avenue approximately 40 metres from the AGP), without mitigation, the noise levels resulting from the use of the AGP would be between 50dB and 52dB. This is below the measured background noise levels in the area. Allowing for 10-15dB attenuation from the building façade with a window partially open⁴ would result in internal noise levels of 35-37dB.
12. The World Health Organisation Guidelines for Community Noise 1999 set out guideline values for specific environments, with a level of 50dB L_{Aeq} as the threshold for outdoor residential spaces above which there may be some moderate annoyance in the daytime and evening. The guideline value for inside dwellings in the daytime and evenings is 35dB. This is also recognised as an acceptable internal noise level in residential properties by BS8233:2014 - Guidance on sound insulation and noise reduction for buildings.
13. In general, background sound levels exceeded at noise sensitive receptors by more than 3dB will be perceptible, and an exceedance by 5dB may cause disturbance. The modelled noise levels only slightly exceed the guidelines from the World Health Organisation and in BS8233:2014, to the extent that they would be perceptible.
14. The proposal development includes noise attenuation in the form of a 3 metre high acoustic fence to the side of the AGP closest to the residential properties. It also

¹ The sound pressure level exceeded for 90% of the time during of the operational hours of the AGP.

² Sport England Design Guidance Note: Artificial Grass Pitch (AGP) Acoustics - Planning Implications (2015)

³ The equivalent continuous sound pressure level which contains the same sound energy in a one hour period, as the actual (usually varying) sound over the same time period e.g. the average sound energy but with a bias towards the noisier events that occur during the 1 hour period measurement period.

⁴ BS8233:2014 – Guidance on sound insulation and noise reduction for buildings.

proposes anti-vibration mounts for the perimeter fencing and a noise management plan. These measures could be secured by a planning condition.

15. The Council do not challenge the technical findings or the methodology of the NIA but notes that there is a distinction between noise as a statutory nuisance and perceived noise as an effect on living conditions and health. The effects of noise are subjective, depending on an individual's sensitivity to noise and the tendency of people to be less tolerant of noise generated by sources which they consider as undesirable in other ways. Nevertheless, the unmitigated sound levels would only slightly exceed the guideline levels and are below the prevailing background noise levels. With suitably designed attenuation measures, such as the proposed acoustic fence, the sound levels at the closest noise sensitive receptors would be further reduced to below the acceptable guideline levels. There is no substantive evidence which would indicate that this could not be achieved.

Light

16. In terms of the living conditions of nearby residents, as with noise, the proposal would primarily affect the properties on Roman Avenue that face towards the school grounds. During the hours of darkness, the vicinity of the appeal site is only generally lit by streetlights adjacent to the carriageways of the adjacent roads. The existing pitch on the appeal site is not illuminated although the existing smaller artificial turf area adjacent to the school buildings is floodlit.
17. The proposal would introduce a floodlit sports facility onto an area of land that is currently not directly illuminated and appears as a dark backdrop to the streetlit Roman Avenue.
18. The Lighting Report submitted with the application contains much technical data but no written interpretation or assessment of it, or the effect of the lighting on nearby properties.
19. This notwithstanding, the submitted details indicate that that horizontal light spill from the proposed installation would not extend beyond the boundaries of the school grounds. The submitted information also shows that there would be a small amount of upward light spill although this would be at its most intense above the AGP itself and at the closest residential properties would be 1 Lux or less⁵, which is less than the level of illumination provided by typical streetlighting.
20. The Council accept that the proposal has been designed in accordance with the Institute of Lighting Professionals Guidance Notes for the reduction of obtrusive light (2020). The Councils principal objection is the visual effect of the illumination of a previously dark area. A combination of the light source (the floodlights) and reflected light from the playing pitch area would, during the hours of darkness, result in an area that is subjectively much brighter than its immediate surroundings.
21. The submitted details show that the proposed floodlighting would not increase the currently existing levels of light within the garden areas of the closest properties or within the houses themselves through light spill from the site. The illuminated area would, however, be visible from the houses and would be relatively extensive.

⁵ e.g. 1 lumen per m²

22. The proposed floodlighting would only be used when the AGP was in use. This is proposed to be limited to 21:30 on weekdays and use would cease by 18:00 and 17:00 on Saturdays and Sundays respectively. Although the introduction of the proposed lighting would change the character of the outlook from the houses facing the playing fields, this would be for a restricted duration and would be most noticeable during the late autumn/winter/early spring period when the hours of darkness are longer.
23. The proposal would result in a change to the outlook from nearby properties at certain times of the day and at certain times of the year. However, there is no right to a view from a property and the short term changes that would occur as a result of the lighting would not be so great as to amount to harm to the living conditions of the occupiers that would justify refusing permission on these grounds.

Vehicle movements/car parking

24. It is not contended that use of the AGP by the school, during the school day, would have any adverse effects on traffic and parking. If matches are held with visiting teams during school hours, there is nothing to suggest that the school could not effectively manage the arrangements for coach or mini-bus drop-offs and pick-ups.
25. It is also not in dispute between the parties that the proposed development would lead to an increase in parking demand outside of school hours. This would primarily be in the evenings and at weekends.
26. There are approximately 97 car parking spaces at the site. These are divided between a main car park of approximately 70 spaces accommodated in areas surrounding the school building accessed from Church Chare/Mains Park Road and a secondary car park, accessed from Roman Avenue, which can accommodate approximately 27 vehicles. In addition to the main school access from Church Chare/Mains Park Road, there is a gated secondary access to Roman Avenue which is used to allow buses and coaches which have entered via the main access to exit the school site. This is not used to enter the school site.
27. To the south of the school and the appeal site is a housing estate bounded by Roman Avenue, Ropery Lane to the south and the A167 dual carriageway to the east. Vehicular access is from the A167 via Roman Avenue, and Ropery Lane via Holmlands Park. A second junction of Holmlands Park with Ropery Lane provides egress onto Ropery Lane but no entry from it. The junction of Roman Road with the A167 is with the northbound carriageway only and as a result vehicles can only turn left onto Roman Avenue from the A167 and left from Roman Avenue to join the A167. There is no public vehicular access to Roman Avenue from the west, although there is a pedestrian link that runs parallel to the main school access.
28. Within the housing estate, although on-street parking is possible, there are extensive parking restrictions in the form of double yellow lines. A controlled parking zone operates in the residential streets on Monday-Saturday between the hours of 09:30 and 11:30, and 12:30 and 14:30 and limits parking between those hours to resident permit holders only. Numerous driveway accesses, often marked by painted "I bars", further restrict on-street parking opportunities. On most of the streets the carriageway is separated from the footway by a grass verge. Due to the width of the carriageways, and the soft verges discouraging parking partially off the carriageway, parked vehicles reduce the available width

such that two vehicles cannot pass a parked car. I observed when I visited the site that on-street parking generally occurred on one side of the street only.

29. From the representations received in connection with the original planning application and the appeal, it is clear that at present that there is significant concern amongst the local residents regarding parking in the residential streets associated with activities at the school and community centre and that this indiscriminate or careless parking is perceived to have an adverse effect on their quality of life and living conditions.
30. The application was accompanied by a Transport Statement and a subsequent Highways Technical Note. These documents used the TRICS (Trip Rate Information Computer System) database to model predicted parking demand arising from the use of the AGP using a number of methodologies. These generate a weekday peak demand (18:00 – 20:00) of 40 parking spaces arising from the development, and a weekend peak demand (14:00 – 15:00) of 78 parking spaces. The Council has not presented any technical evidence to contradict the predicted parking demand but does suggest that the sites used from the TRICS database are not directly comparable to the proposed development. There is no evidence of existing actual visitor numbers, or the type of transport used by teams and spectators visiting the site beyond two, single day, parking surveys, one on a Thursday evening and one on a Saturday. It is stated that these surveys were timed to coincide with events at the community centre although the nature of these events is unspecified.
31. Based on the appellant's modelled figures, the parking requirement generated by the AGP use alone could, in purely numerical terms, be accommodated within the available parking at the school site, provided that all of this is available for use.
32. However, the trip generation modelling does not take into account the fact that there are a sports hall, theatre, and gym within the school which are also available for hire outside of school hours. There is also the existing smaller, floodlit, artificial grass pitch. Whilst it is stated that this existing smaller pitch will be taken out of use and its present users transferred to the new pitch, no mechanism has been put to me that would ensure that this would in fact be done. This raises the possibility that both artificial grass floodlit pitches could be used simultaneously and further increase parking demand, a factor which has not been considered within the submitted Transport Statement and Highways Technical Note.
33. The appellant has suggested a parking strategy that promotes the use of the main car park at the school as the first option and once that is fully occupied, the bus gate to Roman Avenue would be opened to allow vehicles to access the smaller car park. The parking arrangements would be controlled by marshals.
34. I observed that the main parking area at the school is constrained in terms of manoeuvring and turning areas and there are a number of pinch points where two vehicles could not pass simultaneously. Irrespective of whether this car park is numerically adequate in terms of potential spaces, due to its configuration, there is little that would indicate that even with marshals present it would operate effectively at times when large numbers of vehicles are attempting to arrive or leave, such as at the changeover between sessions. The awkward configuration of the main car park and potential for vehicle conflicts may well deter some users

from utilising it, especially if they are aware that the smaller car park off Roman Avenue exists.

35. It is also not clear how the proposed use of the smaller car park, intended as an overflow, would be effectively managed in practice. Although it is proposed that vehicles would be released through the bus gate by the traffic marshal if the main car park becomes full, the smaller car park has an independent access from Roman Avenue and is also adjacent to the proposed AGP. Drivers, particularly visiting teams and spectators, arriving at the site are very likely to approach via the A167 due to its connections with the main road network and the more circuitous route to reach the main car park through the town itself. The proposed traffic marshal and signage indicating the main car park would only be effective if all drivers initially arrived from the town centre side of the school. This is not within the appellant's control.
36. In the event that the smaller car park was at full capacity, it is not at all certain that drivers arriving via Roman Avenue would seek to use either the main car park or the public car parks within the town centre, particularly as this would entail exiting left from Roman Avenue then travelling north to the Picktree Lane/A167 roundabout and then returning south to try and find a car parking space potentially some distance from the AGP. Or, alternatively, drivers would make their way through the residential estate to Ropery Lane to return to the town centre from the south. The public car parks within the town centre are further from the facility and parking is charged for. It is much more likely that drivers would seek to find available on-street parking within the residential streets to the south of Roman Avenue, which would be closer to the AGP.
37. There is a controlled parking zone (CPZ) in operation on the residential streets. This would have some effect on limiting parking generated by the proposed new AGP that could not be accommodated within the school site. However, the CPZ does not operate in the evenings or on Sundays which are the times when the demand for parking in connection with the new pitch is likely to be higher than during the daytime on week days, when the school would be the sole user of the facility, and so would not wholly mitigate additional parking.
38. The parking accumulation figures set out in the appellant's Highways Technical Note indicates that parking demand could be met within existing capacity⁶ in the area on weekday evenings. However, at weekends it shows that during the 14:00-15:00 and 16:00-18:00 periods, the total demand exceeds the number of parking spaces available. It also indicates that there is no spare capacity in the 15:00 to 16:00 time period. The capacity is exceeded at times when the CPZ is not in operation.
39. The car parking survey included in the Highways Technical Note shows that the Roman Avenue car park was close to, or over, capacity from 14:15 to 16:00 at the weekend. It also shows that whilst the surveyed area as a whole potentially has capacity at the weekend, in some streets, particularly those closest to the proposed AGP, very high levels of parking demand occurred, at times close to or exceeding capacity. The residual parking capacity was measured utilising both 5m and 5.5m lengths of carriageway to calculate parking spaces. Whilst the Lambeth

⁶ The identified existing capacity includes both the on-site parking provision at the school and the available on-street spaces in the residential streets.

method for car parking surveys uses 5m for vehicle length, parallel parking requires a greater distance for manoeuvring, the average size of vehicles has increased since the Lambeth methodology was introduced, and drivers may not always park in the most efficient manner. In these circumstances the calculations based 5 metre parking bays are extremely optimistic and those based on 5.5 metres are, in my view, more realistic. This reduces the potential number of available on-street spaces by 17 compared to 5m bays.

40. The parking survey shows that on Saturday afternoons both the Roman Avenue car park and some of the residential streets are parked at a level which exceeds the calculated capacity. It is clear from the appellant's own figures set out in the Highways Technical Note⁷ that on weekend afternoons there is insufficient parking capacity on the school site and in the surrounding area to accommodate the parking generated by the proposed AGP.
41. The parking capacity is not exceeded when using the appellant's alternative methodologies of modelling the parking demand using the site area or number of pitches as the basis for the calculation⁸. However, this is caveated with a statement that it is subject to a strict parking management strategy to be enforced by Park View Academy.
42. The appellant's proposed Out of Hours Management Strategy, set out in the Transport Statement and elaborated on in the Highways Technical Note, includes the extension of the current booking system for the community centre to include the new AGP. Bookers would be made aware of different means of accessing the site as well as promoting the main car park as the first and preferred option, followed by the smaller car park on Roman Avenue. Whilst this information might be included in the booking confirmation it is dependent on the person making the booking making others involved in the booking, namely players and spectators, aware of it. How effective this would be would depend on the internal communications within the booking organisation. This is not within the control of the appellant.
43. It is also suggested that the booking system would incorporate a mechanism whereby two events that are expected to attract larger numbers of attendees would not be able to take place simultaneously at the community centre and AGP. There is no indication of the thresholds at which this would occur and from the projected parking demand for the AGP set out in the Transport Statement and Transport Note, which at times would utilise much of the available parking, this would potentially preclude other events taking place and there is no indication of how events would be prioritised.
44. Although the appellant has subsequently provided some further elaboration of the car parking management measures as part of the redetermination process, there is still no indication of how the booking system could be amended to prevent double booking of large events at the community centre with use of the AGP, the thresholds that would apply, or how events would be prioritised. Nor is there any further clarity in respect of how the information in respect of the parking arrangements could be disseminated to all visitors/users to the AGP.

⁷ Table 16 Milestone Transport Planning Highways Technical Note

⁸ Table 17 Milestone Transport Planning Highways Technical Note

45. It is also suggested that, as an additional measure, the operating times of the CPZ could be amended to cover the proposed hours of operation of the AGP. The Council contend that this would not fall within the scope of Section 1 of the Road Traffic Regulation Act 1984 which addresses Traffic Regulation Orders. However, Section 1(1)(f) sets out that it may be expedient to make an Order “For preserving or improving the amenities of the area through which the road runs” which would be applicable in the circumstances of this case. Nevertheless, whilst a third party can request that a Traffic Regulation Order is made or varied, ultimately it is for the Highway Authority to determine whether it is expedient to do so and to make the Order. It is also a separate legal process with its own consultation and confirmation processes. Consequently, whilst this approach might address opportunistic parking associated with the development, it is a solution that is not wholly within the control of the appellant to implement and is dependent on the co-operation of another party.
46. Although dedicated parking spaces for minibuses could be marked out within the car parking areas, this would have the effect of reducing available car parking spaces and such spaces would also need to be larger than a conventional car parking bay to accommodate the length and width of such vehicles and to allow for passenger embarkation/disembarkation. This would further reduce the space available for car parking.
47. It is suggested, although only as a potential remedial measure, that off-site parking would be monitored to identify users that may be ignoring the car parking management plan with the potential to ban regular offenders for booking pitches or attending events. Whilst it would be possible to monitor the extent of on-street parking through observation, it is not at all clear how users ignoring the Car Parking Management Plan might be identified or how a ban on offenders from using the facility might be enforced.
48. The appellant also suggests that in the event that the proposed Out of Hours Management Strategy, secured by a planning condition, proves ineffective and parking on the local road network became an insurmountable issue, the Council could use its enforcement powers under the Planning Act to prevent the use of the AGP.
49. On its face, this may appear to be a solution. However, in practice, the alleged breach would, of necessity, be failing to comply with any condition or limitation subject to which planning permission has been granted⁹. The suggested condition requires the submission of a parking management scheme to manage parking within the site, notwithstanding that as presently worded the condition lacks any requirement to actually implement the strategy. If the scheme was ineffective at managing parking associated with the development beyond the site itself, that would not necessarily be a breach of the condition, or planning control, as the condition would have been complied with by the act of submitting the scheme. In the event that the submitted scheme proves ineffective, this would not, of itself, be a breach of planning control. I am, therefore, not persuaded that enforcement action would, in truth, be a remedy.
50. Although it is proposed to monitor the effectiveness of the proposed Travel Plan and develop new measures should the mode share targets not be met, the only

⁹ Town and Country Planning Act 1990 (as amended) Section 171A(1)(b)

suggested additional measure is the provision of additional cycle parking spaces. The Council point out that cycling is unlikely to be an attractive means of transport for users of the AGP and I would concur with the Council's position that there are no obvious, achievable, additional measures beyond those measures already proposed which might further the modal shift away from car use.

51. Opportunistic parking in residential streets can have an adverse effect on the living conditions of the residents of those streets, both from frustration at potentially being unable to park, or having driveways obstructed by carelessly parked vehicles, but also from additional noise and disturbance from both extra vehicles transiting the streets and increased pedestrian traffic. The latter would add to the frustrations and inconveniences resulting from indiscriminate and opportunistic parking.
52. The appellant's evidence shows that significant parking demand can and does occur in the area at present which would be exacerbated by the additional parking demand created by the proposed AGP. From the evidence, and from what I saw when I visited the site, the currently proposed Out of Hours Management Strategy would not sufficiently mitigate the effect of increased parking demand and this would be harmful to the living conditions of the residents of these streets.
53. The proposed planning condition suggested by both the appellant and the Council in respect of a car parking management plan merely requires a management plan to be submitted for written approval. It lacks an implementation clause and, consequently, there would be no obligation on the operator to abide by the terms of any scheme. In addition, it does not contain a clause that requires the effectiveness to be monitored or a requirement to review and update the scheme, should it not function appropriately to control parking in connection with the use of the AGP. This is, however, potentially rectifiable. Nevertheless, there is little in the evidence that would indicate how an amended car parking management plan or Out of Hours Management Strategy would improve on the effectiveness over what has already been suggested or address the issues that have been identified above.
54. The proposed condition in respect of a Travel Plan does include implementation and monitoring/review provisions however, in isolation, this would not address parking related issues.

Conclusion on living conditions

55. Whilst the proposal, subject to the imposition of conditions, would not have an adverse effect on the living conditions of nearby residents in terms of light or noise pollution from the AGP, I have found that the effects of additional parking and vehicle and pedestrian movements in the residential streets to the south of the appeal site would cause significant harm.
56. The proposal would therefore be contrary to the requirements of Policy 29(e) and the relevant requirements Policy 31 of the County Durham Plan 2020 (the CDP) which seek to minimise the impact of development on the occupiers of existing and adjacent nearby properties and expect development to demonstrate that it will have no unacceptable impact on living conditions.

Highway Safety

57. In broader highways terms, the proposed development would generate more traffic movements on the highway network in the wider vicinity of the appeal site. These would primarily be on the A167 and its linked routes to the east of the appeal site and on Church Chare and other roads in the town centre area.
58. The approach roads to the site, Church Chare and Roman Road are all generally 5.5m in width as a minimum. They are designed to carry larger levels of traffic than residential streets and have a primary function to facilitate the movement of traffic on the road network. Roads of this width have a two way flow design capacity of approximately 1500 vehicles per hour. Even in the event that the Transport Statement and subsequent Highways Technical Note have underestimated the traffic generation from the proposal, from the information that I have, adding the traffic generated by the development to the existing traffic flows on these roads would still be below their design capacity.
59. The Transport Statement and Highways Technical Note state that due to the presence of the two vehicular access points, on Church Chare and Roman Avenue, vehicular traffic will be split between the two and will equally disperse across the local highway network. Whilst this is correct to an extent, the vehicular access to Roman Avenue serves a much smaller parking area of only 27 spaces and is being promoted as an overflow car park, although the evidence indicates that it will in all probability be regularly used. Additionally, as set out on the previous section, there is likely to be additional vehicle movements in the residential area to the south of Roman Road. Nonetheless, in general terms, a greater number of vehicles would be using the Church Chare access point than Roman Road.
60. The traffic count figures have been referenced for the A167 and the Transport Statement concludes that the additional vehicle movements generated by the development would not increase the level of traffic to the extent that it would be detrimental to the effective operation of the junctions on this road to the north and south of the appeal site.
61. The traffic data count recorded on the highway network at Church Chare/Main Park Road, and on Roman Road has also been provided which indicates that the levels of traffic on these roads would be reduced when the proposed AGP is at its busiest, outside of peak times. The recorded traffic volumes are stated as normal and indicate that there would be approximately a 50% drop off in traffic levels at the main site access and an approximately 70% reduction of traffic on Roman Road at the busiest times of use for the AGP on weekday evenings at 7-8pm and a Saturday 4-5pm. Consequently, there would not be a significant effect on the operation of these roads.
62. As set out above in respect of parking, the junction of Roman Avenue with the A167 is such that vehicles can only turn left onto the A167 when leaving the site from the Roman Avenue car park. Because of this, vehicles leaving the site and wishing to travel south or west, or those arriving from the A167 in the first instance and not able to be accommodated in the Roman Avenue car park, would very likely filter through the residential area to the south to access Ropery Lane. This would increase the number of vehicle movements on these residential streets. However, the narrowness of these residential streets combined with parked

vehicles would have the effect of naturally slowing vehicle speeds though the estate.

63. The appellant has also provided within the Transport Statement accident injury data for a five year period from 2017 to 2022 in relation to the highways in the vicinity of the appeal site, including the residential streets to the south. This data is not challenged by the Council. This data shows that there have been no personal injury collisions on Roman Avenue, Church Chare/Mains Park Road, or the residential streets leading from Roman Avenue during that period. The accident data shows that the majority of the incidents occurred at either the roundabout junction of the A167 and Ropery Lane or on Front Street. Whilst not conclusive, the data indicates that the highways in the vicinity of the site generally operate in a safe manner.
64. The Framework sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. From the evidence before me, whilst the proposed development would result in an increase in vehicle movements on the highway network in the vicinity of the appeal site and result in opportunistic parking in residential streets, there is nothing that would indicate that the proposal would result in an unacceptable impact on highway safety. I am also mindful that the Highways Authority has not objected to the proposal.
65. The proposal would therefore comply with the relevant requirements of Policy 21 of the CDP which among other matters requires that the vehicular traffic generated by new development can be safely accommodated on the local and strategic highway network.

Character and appearance

66. The appeal site is located on the eastern edge of the built up area of Chester-le-Street. It is bounded to the east by the A167 dual carriageway road with Riverside Park and the River Wear beyond. A pedestrian footbridge crosses the A167 and links Riverside Park to Roman Road. Roman Avenue runs to the south of the site with a number of residential streets running south from it. It has a wide grass verge with street trees on its north side separating the footway from the carriageway and a narrower verge to the south side. The houses to the south are predominantly inter-war, two storey, houses and bungalows in a mix of brick or brick and render, with some mid to late twentieth century houses on Lindisfarne Avenue and Queens Park.
67. To the north, beyond a line of tall, mature trees, on the boundary and at a slightly lower level are Chester-le-Street Leisure Centre and a small Council operated office building with their associated car parks. These lie on the edge of a large area of open space running north to the Chester Burn. Between the appeal site and Church Chare to the east is Park View School, a complex of later twentieth century buildings extending from a Victorian core building with associated car parks and a small floodlit artificial grass games area. Further east are the Victorian era Cestria Primary School and the Grade I listed St Mary and St Cuthbert's Church. The appeal site is adjacent to, but not within, the Chester-le-Street Conservation Area.

68. St Mary and St Cuthbert's Church was listed in 1950 and at Grade I, is considered to be of national importance. The current church dates from the mid thirteenth century with fourteenth, sixteenth, eighteenth, and mid-nineteenth century additions and alterations. The prominent tower and spire are an important landmark feature in the town. The present church occupies the site of an earlier church established in the ninth century on a Roman fort. The fort is a Scheduled Monument [List Entry No: 1003575] although much of the monument is below ground and under built elements of the town. Its significance is primarily archaeological through its evidential value of Roman settlement in Britain.
69. From the evidence, the significance of the church is derived from its architectural interest through its age, development over time, detailing and materials. It also has significant historical interest through the association with the early development of Christianity in England. The church also has a high aesthetic value arising from its appearance and being a prominent townscape feature. The appeal site lies within the wider setting of the church.
70. Neither party has adduced any substantive evidence in respect of the contribution that the setting of the church makes to the significance, or the understanding of the significance, of the listed building. The tall spire of the church is nevertheless an important landmark feature that is visible from a number of viewpoints within the town and around the appeal site.
71. The proposal involves the installation of six 15 metre high floodlighting columns around the perimeter of the AGP three to each side. Four of the columns would carry two LED lighting heads, and two central columns would each carry three lighting heads. The columns would be tapered with a diameter at ground level of approximately 250mm narrowing to approximately 100mm at the top. The lighting heads would be mounted on a crossbar attached to the top of the column.
72. From Church Chare and Middle Chare, a combination of the distance from the AGP, the presence of intervening buildings, and the AGP being located on lower ground as the topography slopes downward to the east towards the River Wear would result in the lighting columns and lighting units not being particularly visible in views of the church.
73. The lower lying open space area of Burns Green to the north is part of the wider setting of the church and the spire of the church is a prominent feature in views from here. Due to the height of the proposed floodlighting columns and their position on higher ground, there are some viewpoints where the upper parts of the columns would be visible in conjunction with the church spire. However, due to the degree of separation, the slim profile of the columns and the small size of the lighting units, these would not compete visually with the spire or detract from the understanding of its significance.
74. In views from the east and south east across the playing fields, the church spire is visible above the intervening school buildings. At present these views are across a largely open area of playing fields with the current floodlit artificial grass games area adjacent to the school buildings. The proposed development would result in the AGP with its associated fencing and lighting columns being visible in the foreground of these views. The proposed perimeter fencing with its support structures and the acoustic fencing would reduce the openness of the area to some extent. However, there is little in the evidence that would indicate that what

are now the school playing fields had any historical association with the church. Due to the slim nature of the lighting columns and the relatively small size of the lighting units, these would not impinge on views of the church spire in any significant way and would have only a very small effect on how the heritage value of the church spire would be experienced and understood.

75. Whilst there are some points on the A167 where the church spire is visible, due to the nature of the road, traffic speeds, intervening buildings and trees and changes in ground level, these views are momentary and the effect of the presence of the lighting columns would be unlikely to be noticeable.
76. The principal effect of the proposal on the church would be during the hours of darkness when the proposed floodlighting would be in operation. The church and its spire are illuminated at night by architectural floodlighting. The purpose of the floodlighting is to better reveal aspects of its significance. In views from the west, north, and south, any visible light spill from the proposed floodlighting at the new AGP would be to the rear of the church and partially occluded by the school buildings and trees around the site. Consequently, it would have little direct impact on the effect of the floodlighting in revealing the significance of the building.
77. In views from the east, from Roman Avenue and the footbridge over the A167, the effect of the floodlights and floodlit area would potentially diminish the effect of the floodlit spire at night. This would be harmful to the setting of the building through diminishing the extent to which its significance can be experienced. That said, the harm would only occur when the floodlights are operating and would be limited in duration. There would be other times during the hours of darkness where it would not occur. The extent of the harm would also be limited to those aspects of the building's significance relating to the upper parts of the tower and spire and how these are experienced in views from the east.
78. The proposed development would cause a degree of harm to the setting of the listed building through the introduction of illumination into a part of the setting that would diminish the effect of the architectural floodlighting on the church spire that serves to reveal its significance during the hours of darkness. This harm would, however, be restricted to closer range views from the east, would only affect one element of the building's significance, and would only occur when the floodlighting was in use. Consequently, although harm would occur, it would be limited in extent and duration and would only result in a very minor adverse effect.
79. Although the Council suggest that the harm to the significance of the listed building by extension would also extend to the Scheduled Monument, the monument is largely below ground with only small elements exposed. The harm that I have identified relates to the upper parts of the church tower and spire and there is nothing in the evidence that would indicate that the proposed development would in any way affect the special historic interest or significance of the scheduled monument.
80. The appeal site is located outside, but adjacent to the boundary of the Chester-le-Street Conservation area although the majority of the conservation area lies to the east and north east of the site separated from it by the intervening school buildings. The conservation area comprises the historic core of the town and its market place, the open space at Burns Green and part of the valley of the Chester Burn running west from the market place.

81. The Chester-le-Street Conservation Area Appraisal (CAA) identifies the significance of the conservation area as being derived from the significant Roman Archaeology associated with the early roman occupation of the area and the development of the fort with its associated settlement; the Christian importance of the settlement; the prominence of significant listed structures, namely, the Church of St Mary and St Cuthbert and the viaduct over the Chester Burn; and important open spaces that run into the town centre from both the west and east. Although it forms part of the setting of the conservation area, the appeal site contributes little or nothing to the understanding of the significance of the conservation area.
82. The CAA identifies a number of key views into, out of, and within the conservation area. None of these views contain both the appeal site and the church, which is identified as a prominent building, in the same view. A view out of the conservation area is identified looking east along Roman Avenue towards Lumley Castle on the skyline in the distance. The floodlighting columns on the southern side of the new AGP would potentially be visible on the periphery of this view, in the middle distance. The focus of the view is down the axis formed by Roman Avenue and the new lighting columns would be seen in the context of the school buildings, the existing fenced and floodlight artificial pitch, and streetlighting columns and street trees on Roman Avenue. The floodlighting columns would not be seen in front of the visible elements of Lumley Castle, which is the key component of the view.
83. Lumley Castle is a Grade I listed building [List Entry No. 1120960]. It is situated within a Grade II Registered Park and Garden [List Entry No. 1001395]. The Council have not raised any concerns in respect of the effects of the proposal on these heritage assets. The appeal site is within the wider setting of Lumley Castle and its associated Park and Garden. However, due to the intervening distance, and the fact that the proposal would not interrupt the identified key view along Roman Avenue, I would agree with the conclusion of the Heritage Statement submitted with the application that the development would not have any effect on the setting or significance of the castle and park, or on the ability for these assets to be appreciated.
84. I have found above that the proposal would cause a small amount of harm to the setting of the Grade I listed St Mary and St Cuthbert's Church which is located within the conservation area. By extension, there would also be a small amount of harm to the character and appearance of the conservation area due to the presence of additional artificial lighting and the effect that this has on the setting of the church, a prominent landmark building within the conservation area. However, as this harm would only occur when the floodlighting was in use and would be limited in extent to that part of the conservation in the near vicinity of the church, it would have only a very minor effect on the character and appearance of the conservation area as a whole.
85. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage assets, great weight should be given to the assets' conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification. Given the above, I find the harm caused to the listed building and conservation area to be less than substantial in this instance but

nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.

86. The proposal would create enhanced sports facilities that could be used throughout the year. The use outside of school hours would benefit a wide range of users and participants, in terms of both recreation and health, in addition to providing a benefit to school pupils. This would be a significant public benefit.
87. The Council's Playing Pitch Strategy identifies a need for 2 AGPs in the North Area of the County, which includes Chester-le-Street. There is little in the way of evidence which would indicate that the required pitches would be provided elsewhere at this time. The proposal would help to address this need, and this adds some additional weight to the public benefits it would generate.
88. In addition, the proposal would result in some small scale biodiversity improvements, and moderate economic benefits derived the construction and ongoing operation of the facility. These would be additional public benefits. Cumulatively, these public benefits would outweigh the very minor amount of harm that would be caused to the setting of the church and to the conservation area.
89. In broad terms, beyond the conservation area boundary, the proposal would retain the character of the site as a playing field but would result in a slight alteration to its appearance through the introduction of fencing around the boundary of the AGP to retain balls and to act as an acoustic barrier. It would also introduce the six floodlighting columns as tall features. The appeal site is fairly well screened from the A167 and from the open space to the north by existing tree planting within and outside the site boundaries. From the east, views of the site are occluded by the school buildings. As a result, the principal views of the site are from Roman Avenue to the south. Whilst the proposed development would alter the appearance of the site from Roman Avenue, the degree of change would not be so great as to amount to visual harm from this viewpoint.
90. As set out previously under consideration of living conditions, the most obvious change from this viewpoint would occur during the hours of darkness when the floodlights were be in use. At these times an area which was previously in darkness would be brightly illuminated and subjectively much brighter than its immediate surroundings. However, as previously stated, this would be of limited duration and only more obvious during the later autumn, winter, and early spring months when the floodlights would be in use for longer periods of time. In these circumstances I do not find that the change that would result would amount to harm of sufficient magnitude to warrant refusal of planning permission on this ground.
91. Given the above I conclude that, on balance, the proposal would preserve the setting of the Grade I listed building and the character and appearance of the Chester-le-Street Conservation Area. This would satisfy the requirements of Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 210 of the Framework, and would not conflict with Policy 44 of the CDP that seeks, among other things, to ensure that heritage assets are conserved in a manner appropriate to their significance and that the significance of listed buildings and conservation areas are conserved. Nor would the proposal cause harm to the character and appearance of the area

beyond the conservation area boundary. As such the proposal would comply with the requirements of CDP Policy 29(a) and Policy 39 which expect new development to contribute positively to and areas character, identity, and townscape and landscape features, and to not cause unacceptable harm to the character, quality or distinctiveness of the landscape or to important features or views.

Other Matters

92. The Heritage Statement submitted with the application identifies that the appeal site is located within an area which contains significant archaeological remains from the Roman and early medieval periods. It is noted that the development area has the potential to contain, in particular, remains relating to the vicus (civilian settlement) that surrounded the Roman fort, which lies to the west of the site, as previous archaeological works on the site have identified remains of the vicus. It is accepted that the archaeological remains would be a non-designated heritage asset of regional significance because of their potential to address regional research objectives relating primarily to Roman settlement and fortification.
93. The Planning Practice Guidance advises that where an initial assessment indicates that the site on which development is proposed includes or has potential to include heritage assets with archaeological interest, applicants should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The appellant has provided a desk based assessment as part of the Heritage Statement. The Heritage Statement also recommends that there should be an archaeological watching brief in place during excavations for the foundations for the floodlighting columns.
94. The Council has not raised any objections to this approach and a watching brief, and any appropriate recording required could be secured by way of a planning condition.
95. Whilst there were approximately 190 representations objecting to the proposed development, there were also approximately 90 representations made in support of it. I have had regard to the points raised in support of the proposal but none of these would lead me to a different overall conclusion.

Conclusion

96. I have found that the proposed development would cause harm to the living conditions of local residents and as such would not comply with the requirements of Policy 29(e) and the relevant requirements Policy 31 of the CDP, notwithstanding that it would comply with other aspects of those policies and other policies in the development plan.
97. As set out above, there would be a number of benefits derived from the proposal in terms of enhanced sports facilities for the school and the wider community and some modest economic and biodiversity benefits. Nevertheless, this has to be weighed against the significant and lasting harm that would be caused to people living near to the site from indiscriminate and opportunistic parking. Whilst some local residents may use the AGP facility, many will not and thus would not derive any benefit from it. Although the appellant has proposed a parking management strategy, the evidence is not persuasive that this would effectively control parking in connection with the use. This is an important matter which leads me to

conclude that the benefits of the scheme would not overcome the significant weight that I have to give to the conflict with the policies of the development plan.

98. Consequently, I conclude that the proposal would conflict with the development plan when taken as a whole and that there are no material considerations that would indicate that planning permission could be granted.

99. For the above reasons, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR