

Agenda Item No. 3.1

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING COMMITTEE

6 September 2021

Report of the Executive Director – Place

- 1 NEW SECURITY FENCING AROUND THE PERIMETER OF THE SCHOOL DETACHED PLAYING FIELD AT HASLAND JUNIOR SCHOOL, THE GREEN, HASLAND, CHESTERFIELD  
APPLICANT: DERBYSHIRE COUNTY COUNCIL  
CODE NO: CD4/0521/5**

**4.2494.5**

**Introductory Summary**

This application is for the erection of 380 linear metres of 2.4 metres high black security fencing and gates at the Hasland Junior School around a detached playing field. The site is outside of the defined Settlement Development Limits boundary and is located within the North East Derbyshire Green Belt, as identified in the North East Derbyshire Local Plan 2005. It is considered that the development would be a departure from policy GS2 of the North East Derbyshire Local Plan as the fencing, as a structure, would affect the openness of the Green Belt. It is not listed as being appropriate development in the Green Belt in the National Planning Policy Framework. However, it is concluded that this particular development would provide essential security to the school field that would not conflict with the purposes of including land within the Green Belt. I find the proposal represents very special circumstances.

It is not considered that the development would result in any significant adverse environmental impacts and would accord with the National Planning Policy Framework and with the requirements of the development plan except in a particular respect regarding policy GS2. The application is therefore recommended for approval subject to conditions.

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

(2) **Information and Analysis** This application proposes the installation of new fencing at Hasland Junior School that would enclose the perimeter of an existing detached playing field. The fencing would have a total length of 380 metres (m). The proposed fencing has been chosen to match the existing

fencing and is in accordance with current Derbyshire County Council insurance guidelines for schools.

The proposed fence would consist of 2.43m high Dulock Twin wire 868 weldmesh type fencing panels and gates with steel posts, to match the specification and height of the existing fencing on site. The fence would be powder coated, finished in Jet Black (RAL 9005), to match the colour of the existing fencing.

The application site is located within the administrative area of North East Derbyshire District Council (NEDDC) but is close to the Chesterfield Borough Council (CBC) administrative boundary. It is within the Green Belt that is identified as the North East Derbyshire Green Belt in the North East Derbyshire Local Plan 2001-2011 (NEDLP). It is approximately 550m to the south-west of the main school. The site is a detached playing field that is separated from the main school site by an access track. In the north-east part of the site, there is a pavilion and a shipping container that are situated behind an existing 2.4m high fencing and gate which was granted planning permission in 2014. The existing fencing and gate bridge the gap to the remainder of the site which is surrounded with trees and hedgerows. North of the detached playing field, also in the Green Belt, is a larger school field that has the same type of 2.4m security fencing on its perimeter, for which planning permission was granted in 2017.

There is a public footpath (Chesterfield footpath no.1) that runs along the access track to the north of the application site which leads to Ingleton Road. The site is not within a conservation area, however, it is within approximately 150m of a Grade II listed Manor House Farm, and 190m of a range of other farm buildings also Grade II listed. The application site is located within a Coal Authority high risk area.

The applicant has provided additional information following the submission of the planning application. This information outlines what the applicant regards as the very special circumstances required for development in the Green Belt to accord with the National Planning Policy Framework (NPPF).

### **Planning History**

Planning Permission Code No. CD2/0217/91 - New fencing and gates around the perimeter of the adjacent playing field to the north within the Green Belt. (approved 5 June 2017).

Planning permission Code No. CD4/0814/62 - Installation of additional 2.4m high weldmesh fencing around pavilion building and at exposed openings around field. To include two sets of vehicle gates. This was within the Green Belt (approved 2 October 2014).

## Consultations

### Local Member

Councillor Wooley (Sutton) has been consulted but no comments have been received.

### North East Derbyshire District Council

Has been consulted but no comments have been received.

### Chesterfield Borough Council

CBC raised no objections, but made the following comments:

*“The site to which you refer is located close to two grade II listed buildings, Manor House Farm and the range of buildings to the north. Therefore, the impact of the proposed fencing on the setting of these Listed buildings needs to be considered.*

*Policy CLP21 advises that: In assessing the impact of a proposed development on the significance of a designated heritage asset, the council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible. I also draw your attention to Policy CLP20 of the local Plan which seeks high quality design.*

*The CBC Conservation Officer has considered the details of the proposal and has raised no concerns in this case.*

*It is assumed that the fencing will be appropriately coloured to minimise its visual impact.”*

### Highways

The Council, as Local Highway Authority, has no objections to the proposal but recommends that the following footnote be communicated to the applicant:

*“The Public Right of Way (Chesterfield Footpath No. C2/1/2, as shown on the Derbyshire Definitive Map) must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area.”*

### Publicity

The planning application was first advertised by press notice on 5 August 2021 (Derbyshire Times) as a departure from the development plan. Site notices were originally placed on 9 June 2021 and again on 5 August 2021.

## Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the development plan consists of the NEDLP 2005. The NPPF, revised July 2021, and the associated Planning Practice Guidance (PPG) are also material considerations.

The most relevant development plan policies in respect of this application are the following:

### North East Derbyshire Local Plan 2001-2011 Policies

GS1: Sustainable Development.

GS2: Development in the Green Belt.

GS6: New Development in the Countryside.

BE1: General Design Principles.

BE9: Development in the Vicinity of a Listed Building.

The most relevant chapters of the National Planning Policy Framework are:

Chapter 2: Achieving sustainable development.

Chapter 4: Decision making.

Chapter 8: Promoting healthy communities.

Chapter 12: Achieving well-designed places.

Chapter 13: Protecting green belt land.

Chapter 16: Conserving and enhancing the historic environment.

I consider that the key issues in the consideration of this proposal are:

- The need for the development.
- The location of the development.
- Green Belt.
- Design and visual impact.
- Heritage.

### Need for the Development

The planning statement accompanying this application states that the proposed fencing around the playing field's perimeter is required to improve the security and safeguarding of the students during their lessons and sporting activities. It is stated that the detached playing field is subject to regular vandalism, including fires and littering. The weekly cleaning undertaken by the caretaker results in the collection of litter, glass, drug paraphernalia and dog waste.

I consider that there is a clear need for the proposed development which would provide appropriate security for staff and students, and would help to

prevent vandalism, anti-social behaviour, littering and dog fouling. Subsequently, staff and students would benefit positively from a safer and cleaner environment in which to teach and learn.

### **Location of the Development**

The site is within open countryside outside of any settlement development limits defined in the NEDLP. The school buildings are within the administrative boundary of CBC, however, the detached playing field site, which is the subject of the application, is to the south-west of the main Hasland Junior School, approximately 550m away, and is within the administrative boundary of NEDDC.

Policy GS1: Sustainable Development of the NEDLP states that *“Unless otherwise indicated in the Local Plan, all development proposals will:*

- (a) be located within the defined Settlement Development Limits, unless the development is acceptable in the countryside, or overriding exceptional circumstances can be demonstrated;”.*

In order to consider whether the proposed fencing is acceptable despite the location being outside of defined settlement limits and in the countryside, policy GS6 of the NEDLP, ‘New Development in the Countryside’, is also relevant.

Policy GS6 states that *“In the countryside, new development will only be permitted where:*

- (a) the development is for the operation of a use appropriate to such a location;*
- (b) it is in keeping with the character of the countryside;*
- (c) it causes minimal disturbance to farming and minimises the loss of agricultural land, particularly that of the best and most versatile quality;*
- (d) it does not require major new or improved infrastructure provision;*
- (e) it causes minimal problems of noise, disturbance and pollution and other environmental impact; and*
- (f) it does not represent a prominent intrusion into the countryside”.*

The proposal is for minor scale development, on the periphery of a long-established playing field, which is well screened by existing tree and hedges that cover to all sides of the field. The primary purpose of the field is for outdoor sport and recreation.

I am therefore satisfied that the proposal would be acceptable in this countryside location and it would therefore not conflict with the requirements of policies GS1 and GS6 of the NEDLP. The site is, however, within designated Green Belt, which is given consideration below.

## Green Belt

The site is located within the Green Belt, as detailed above. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy (as now stated in the NPPF) is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Policy GS2 of the NEDLP states that *“Except in very special circumstances, planning permission will not be granted within the North East Derbyshire Green Belt; as defined on the Proposals Map, for new buildings other than for the following uses:*

- (a) agriculture and forestry;*
- (b) essential facilities for outdoor sport and recreation, cemeteries, and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it.....”*

This is a proposal for the enclosure of land by fencing, not for the construction of any new building in Green Belt. The relevant part of policy GS2 of the NEDLP that applies directly to this context states *“Engineering and other operations, and material changes of use of land, will be permitted provided they maintain the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.”*

Policy GS2 requires also that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt by virtue of their siting, design or materials of construction.

Paragraph 138 of the NPPF identifies five purposes which the Green Belt serves:

- “a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

Paragraph 147 of the NPPF states that *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in ‘very special circumstances’.”*

Paragraph 148 of the NPPF states *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness,*

*and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*

Paragraph 150 of the NPPF provides a definitive list of the types of development not comprising construction of new buildings that are (in terms of the NPPF) *“not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.”* Because this paragraph does not list any type of development that equates to erection of fencing, the minor development in this case does not come under the scope of development that may be *“not inappropriate....”*.

Policy GS2 of the NEDLP pre-dates the NPPF, whilst it is not wholly consistent with the NPPF, in terms of describing what is not inappropriate development, the fundamental aim of Green Belt policy as stated in the NPPF is considered to be consistent with it. I am therefore of the opinion that it should be afforded weight in the determination of this application.

NEDDC is currently preparing a new Local Plan to cover the period from 2014 to 2034. Whilst the new plan is not yet adopted it has been subject to examination and the inspector has provided her report, which recommends adoption subject to various modifications. Policy SS10: North East Derbyshire Green Belt of the draft new Local Plan, with some detailed changes as recommended by the report, will mirror the NPPF in respect of Green Belt policy. The new plan cannot be given full weight whilst it remains an unadopted Local Plan, but it is of some relevance that the proposal would be consistent with this emergent policy SS10, on the basis that it is consistent with the NPPF.

In respect of this application, Paragraph 138 c) of the NPPF is of relevance, as it is considered that the openness of the Green Belt would be affected by this proposal, due to the site being enclosed by the 2.4m high fencing which is contrary to the intention of keeping such land permanently open and would therefore constitute inappropriate development within the Green Belt.

Because the proposal is not by paragraph 150 of the NPPF saved from being considered “inappropriate development” in NPPF terms, the NPPF expects permission not to be granted unless ‘very special circumstances’ [meeting the test under paragraph 148] are demonstrated.

The applicant has submitted a letter outlining what it considers to be very special circumstances, as follows (in summary):

- The site is vandalised on a regular basis and there has been a recent fire at the pavilion/changing block.
- Time, money spent on remedial work and increased insurance premiums affect school operations.

- Safeguarding risk to children and staff; it is believed that a significant risk is posed to safety if the fence is not installed.
- The caretaker must inspect the site weekly and collect broken glass and drug paraphernalia.
- If something were to happen then litigation may follow.
- Without the fence the school would stop using the field.
- A community football group also uses the field and shares similar concerns.
- Residents have been disturbed by anti-social behaviour of young people drinking alcohol and leaving bottles and other litter, and the Police have been informed.
- Similar fencing is already erected at the site so a precedent has been set.
- Openness of the Green Belt would not be affected as the fencing would be screened by existing tree and hedge planting.
- The school believes the proposals comply with policy GS2 of the NEDLP and the NPPF.

A letter from Hasland Community Football Club (HCFC) has also been submitted by the agent for the applicant in support of the application. HCFC also use the field and expresses similar concerns, particularly regarding litter and anti-social behaviour.

One letter from a local resident, also submitted by the agent for the applicant, similarly supports the proposal and raises concerns with regard to litter and anti-social behaviour.

Whilst the fence, as a structure, has to be considered to be inappropriate development in the Green Belt in terms of the NPPF, I am satisfied that (if granted permission subject to appropriate planning conditions) it would in practice have only a limited affect on openness. I do not consider that the proposal would cause an unacceptable detriment to the open character of the Green Belt or conflict with the purposes Green Belt serves. I consider that the applicant has effectively demonstrated that very special circumstances do exist in this case, as outlined above, which justify the proposed development, despite its technical inappropriateness as development within the Green Belt. I am therefore recommending that planning permission be granted on those grounds, subject to certain conditions. The proposal would represent a technical departure from the Local Plan.

It is not necessary to refer the current application to the Secretary of State in this instance because the development described does not exceed any of the thresholds set out in the Town and Country Planning (Consultation) (England) Direction 2009.

## **Design and Visual Impact**

Chapter 12: Achieving Well Designed Places of the NPPF and Policy BE1: General Design Principles of the NEDLP require good design principles and that development is in keeping with the character of the locality.

The proposed fencing has been chosen to match the specification colour and height of the existing fence and is in accordance with current DCC insurance guidelines for schools. The existing fence on the site is in two parts. The first part of the fence with gates is located to the north-east of the detached playing field. The second part of the fence is located to the south-west of the detached playing field.

The proposed fencing would have minimal external visual impact as it would be screened behind existing trees and hedgerows that surround the border of the detached playing field. The proposed fencing would be positioned in a visually discrete location, set back from the public highway. It would not be directly visible from any dwellings due to the topography of the site, as well as the screening provided by the existing trees and hedgerows, and would have minimal visual impact on the users of the adjacent footpath located to the north of the site.

I consider the proposed location, colour and design of the fencing is appropriate, given the wider context of the application site, and the proposal is considered therefore to accord with Policy BE1 of the NEDLP and the NPPF.

## **Heritage**

The site is not within a conservation area, however, it is approximately 150m from the Grade II listed Manor House Farm, and 190m from a range of other farm buildings also Grade II listed. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving these heritage assets. The Government policy concerning heritage assets and the statutory requirement is now contained in the 2021 NPPF at paragraphs 189 -208. Paragraph 195 of the NPPF expects local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal.

These buildings are to the north-east of the site and, given the distances involved, intervening topography and planting, I do not consider that the proposed fencing would significantly affect the heritage assets or their settings.

These buildings are in the Borough of Chesterfield and the application site, although in close proximity, is in North East Derbyshire.

The comments received from CBC make reference to policies in the Chesterfield Borough Local Plan (CBLP) in the context of the listed buildings

(being within the boundaries of Chesterfield Borough). Policies CLP20 and CLP21 of the CBLP seek to preserve and enhance heritage assets. CBC does not raise any objection to the proposal.

I similarly see no conflict with policy BE9 of the of the NEDLP: Development Within the Vicinity of a Listed Building, given tree screening around the fencing, distance and topography between the site and listed buildings.

I am satisfied that there would be no harm to the significance of the heritage assets as a result of the proposal. The setting of the listed buildings would be preserved, and I am satisfied that the proposal would accord with Chapter 16: Conserving and Enhancing the Historic Environment of the NPPF, and policy BE9 of the NEDLP, and also policies CLP20 and CLP21 of the CBLP (although these latter policies do not form part of the development plan for the land comprising the application site).

### **Conclusion**

There is a clear need for the development at the school to improve the security of the detached school playing field. The site is, however, located in the Green Belt and the proposed fence, as a structure, would affect its openness (albeit to a limited extent) and would therefore be inappropriate development within the Green Belt according to the NPPF and a departure from the current Local Plan Green Belt policy. However, I am satisfied that the applicant has effectively demonstrated that very special circumstances exist, as is required for granting permission for such a type of development in accordance with the NPPF.

I do not consider that the proposed development would cause any other adverse impacts and I am satisfied, therefore, that the proposal, would not conflict with the NPPF, or with the policies of the development plan other than as described above in respect of policy GS2. The application is therefore recommended for approval, subject to the conditions set out below.

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

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

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

(6) **Other Considerations**

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

(7) **Background Papers** On File No 4.2494.5  
Application documents received from Mr Andrew Norton c/o Hasland Junior School dated 18 May 2021.  
Security fence to detached field received 18 May 2021.  
The location plan received 18 May 2021.  
Planning Statement received 18 May 2021.  
Security Fencing Brochure received 18 May 2021.  
Letter of support from a resident received 18 May 2021.  
Site plans received 21 May 2021.  
Internal County Highway Authority response dated 17 June 2021.  
Chesterfield Borough Council response dated 7 July 2021.  
Letter of support from Hasland Junior School received 19 July 2021.  
Letter of support from Hasland Community FC received 19 July 2021.

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

**Commencement**

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

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

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

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

- 3) The development shall take place be carried out in accordance with the details in the 1APP form dated 18 May 2021, Planning Statement, and the accompanying drawings PP-09849461-01 entitled 'Location Plan', PP-09849461-02A revision A entitled 'Site Plan'.

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

- 4) All fencing and gates shall be jet black (RAL 9005) in colour.

**Reason:** In the interests of the visual amenity of the area and preserving the setting of the nearby listed buildings.

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

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

### **Footnotes**

- 1) The Public Right of Way (Chesterfield Footpath No. C2/1/2, as shown on the Derbyshire Definitive Map) must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – [ETE.PROW@derbyshire.gov.uk](mailto:ETE.PROW@derbyshire.gov.uk). If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

- 2) Informative Note

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building, over or within the influencing distance of a mine entry, should be avoided. In exceptional circumstances where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Informative Note valid from 1<sup>st</sup> January 2021 until 31<sup>st</sup> December 2022.

**Chris Henning**  
**Executive Director – Place**



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