

London Borough of Hillingdon

Statement of Case

Appeal By: The Girl's Day School Trust

Site Address: Northwood College Educational Foundation,
Maxwell Road

Proposal: Variation of Conditions 12 (All-Weather Pitch Hours of Use) and 13 (All-Weather Pitch Restriction of Use) of planning permission ref. 2082/APP/2007/1411 dated 11-09-2007 (Removal of existing building and construction of new early years centre and relocation of all-weather sports surface playing field (approved under planning application ref. 2082/APP/2003/1103) including details of design and layout) to change the permitted operating hours and use of the all-weather pitch.

Our Ref: 2082/APP/2023/516 Your Ref: APP/R5510/W/24/3348615



1.0 Introduction

- 1.1 This Statement of Case (SoC) is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal to approve application reference 2082/APP/2023/516 for a temporary period of 24 months, as restricted by Conditions 8, 9 and 14.
- 1.2 The LPA granted planning permission on 23rd January 2024 subject to a total of 15 conditions as stated on the decision notice (please refer to Appendix 2), including Conditions 8 (All-Weather Pitch Hours of Use), 9 (All-Weather Pitch Use by Community) and 14 (Community Use Agreement & Parking Management Scheme). These conditions are listed below for reference:
- 1.3 Condition 8 (All-Weather Pitch Hours of Use) states:

For a temporary period of 24 months from the date that this decision is issued, the all-weather playing surfaces shall only be used between the hours of:

- Monday to Friday: 09.00 - 21.00;
- Saturdays: 09.00 - 18:00;
- Sunday: 10.00 - 16.00; and
- No use on Bank Holidays.

REASON

To safeguard the amenity of the surrounding area in accordance with Policy DMHB 11 of the Hillingdon Local Plan: Part 2 (2020) and Policy D14 of the London Plan (2021).

- 1.4 Condition 9 (All-Weather Pitch Use by Community) states:

For a temporary period of 24 months from the date that this decision is issued, the all-weather pitch shall be available for use by the wider community on a managed basis. Activities shall be supervised by a Coach or Club Member and no championships or tournaments shall be held at the application site.

REASON

To ensure that the development does not cause danger and inconvenience to users of the adjoining pavement and highway in accordance with Policies DMT 1 and DMT 2 of the Hillingdon Local Plan: Part 2 (2020).

- 1.5 Condition 14 (Community Use Agreement & Parking Management Scheme) states:

(i) Prior to operation of community use activities, a Community Use Agreement, prepared in consultation with Sport England, shall be submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the indoor, outdoor and supporting facilities and include details

of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. For a temporary period of 24 months from the date that this decision is issued, the Community Use Agreement should allow community use of the facility during the following times:

- Monday to Friday: 09.00 - 21.00;*
- Saturdays: 09.00 - 18:00;*
- Sunday: 10.00 - 16.00; and*
- No use on Bank Holidays.*

(ii) Prior to operation of community use activities, a car parking management strategy which details how parking for community use of the facilities will be managed and catered for on site, shall be submitted to and agreed in writing by the Local Planning Authority.

The development shall not be used otherwise than in strict compliance with the approved documents.

REASON

To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy S5 of the London Plan (2021). Also, to ensure the community use of the facility does not result in an unacceptable impact on the local highway network through an unacceptable increase in demand for on-street parking, in compliance with Policies DMT 1 and DMT 2 of the Hillingdon Local Plan: Part 2 (2020).

- 1.6 The permission granted also secured a Section 106 legal agreement (dated 19th January 2024) (please refer to Appendix 3), obligating the Appellant to pay a financial contribution towards air quality mitigation measures (Schedule 1) and covenant for the submission and implementation of a Travel Plan (Schedule 2).
- 1.7 It is noted that the Committee Report submitted to the Hillingdon Planning Committee recommended approval of the application on a permanent basis, with no planning conditions proposed to limit the development to a temporary period. The Committee members considered the application and Committee Report at the Major Applications Committee Meeting on 26th July 2023. Members noted the importance of regular engagement with the local community and enquired whether this could be assured by way of condition. It was confirmed that this was not something that could be secured by planning condition; however, it was suggested that temporary consent could restrict the permission granted such that further community engagement would be required. A temporary consent for a 24-month period was proposed and secured by Members of the Committee. Please see Appendix 5 for a comprehensive set of Planning Committee Meeting Minutes.
- 1.8 The LPA's case for approval of the application is set out in the Planning Committee Report, which should be read in conjunction with this statement. A copy of the Committee Report is provided at Appendix 1. A copy of the Decision Notice is provided at Appendix 2 and a copy of the Section 106 legal agreement is provided at Appendix 3. Copies of relevant planning policies are included at Appendix 4. A copy of the Planning Committee Meeting Minutes is provided at Appendix 5. Email

correspondence between the LPA and Appellant Team is provided at Appendix 6. The LPA's recommended amended conditions is provided at Appendix 7 in the event the appeal is allowed.

- 1.9 The LPA's SoC is not intended to repeat the Committee Report and will focus on addressing matters raised in the Appellant's SoC.

2.0 LPA Comments on Appellant's Statement of Case

- 2.1 Under section 72 of the Town and Country Planning Act 1990 the LPA may grant planning permission for a specified temporary period. The most pertinent circumstance for granting consent for a temporary period is to implement a "trial run", allowing time to assess the effect of the development on the area. This provides all parties involved a better understanding of the impacts and can be used to justify permanent planning consent, or alternatively evidence a case for refusal if there are clear harms identified during the trial period.

- 2.2 It is understood from the Appellant's SoC that they consider the approval of the application for a temporary 24-month period to be unnecessary and unreasonable, requesting that it be removed from the Decision Notice. For context, the LPA highlights that the Appellant Team was contacted on 27th July 2023 to understand their view on the change from a permanent to temporary consent and whether it was agreeable. The Appellant Team stated the following:

"The 24 month temporary period did not form part of the planning application, but the applicant acknowledges that the Council is entitled to apply planning conditions where it considers that they meet the relevant tests. The Condition sought by the Members would not be a 'a pre-commencement' and so we recognise that the applicant does not need to agree with it before it can be imposed on the planning permission."

As above, an opportunity was provided to the Appellant Team to contest the recommendation made by Committee Members to make the permission granted a temporary permission rather than permanent permission. If contested, Officers would have re-assessed the permanent use proposed alongside the input and considerations of Committee Members, requiring the application be reported back to Committee as required by the established democratic process. The Appellant did not contest the decision made by Committee Members for a temporary approval. Extensions of time were agreed with the Appellant to allow for the completion of the Section 106 legal agreement and the decision to approve the application was issued on 23rd January 2024. The LPA consider the process which concluded in the approval of the application subject to a 24-month temporary restriction to be completely reasonable.

- 2.3 The Appellant notes in respect of the test of necessity (referred to as "Test 1") that there is no requirement for the Application to be temporary. The LPA would highlight the intimate contextual knowledge of Committee Members and residents who did consider it to be necessary, with particular reference to the harm caused in respect of highways safety conditions and neighbouring residential amenity.

These concerns were supported by a petition in objection to the application which received 25 signatories, alongside the submission of a further 17 written objections (please see Appendix 1 for a full summary of the objections received).

- 2.4 The proposal would allow access to the all-weather playing surfaces by the wider community during an increased set of hours, increasing weekday use from between 09.00 – 18.00 to 09.00 – 21.00, and increasing use on Sundays from no allowed activities to use between the hours of 10.00 – 16.00. In the main, the additional hours sought permission for during the week are at a time of the evening which are more sensitive from a residential amenity perspective, when most residents have returned home from work, during the evening peak period (with respect to trip making) and when parking on local roads will be at its highest usage and least capacity. Save for Bank Holidays, Sundays are also the only time of the week during which no activities can occur and provides residents with some respite from any impacts experienced due to the use of the all-weather playing surfaces.
- 2.5 Whilst the school facilities are already used throughout the day by students, they are not used in the sensitive evening hours by the wider community who may be less familiar with local sensitivities than students who regularly attend the school. Whilst the LPA concluded that the impact on neighbouring residents would not be unacceptable, mitigation measures were considered necessary (as per Conditions 8, 9, 14 and 15) and in need of careful consideration and management, in accordance with the requirements set for planning conditions outlined under paragraph 56 of the National Planning Policy Framework (2023).
- 2.6 If the application had not been restricted to a temporary permission, the application would have likely been deferred for further consideration or refused permission. The LPA consider it to be a necessary and reasonable compromise to implement a trial run with monitoring to observe any harms which arise. This provides the opportunity for Applicants and LPAs alike to evidence and justify a case for or against a permanent extension to the hours of use and availability of use by the wider community.
- 2.7 The LPA consider Planning Committee Meetings to be an important part of the planning process, ensuring that the voice of residents is heard, considered and accounted for as part of a democratic process. Given the evidence heard at the Planning Committee Meeting, the grant of permission on a temporary basis is considered necessary in this instance.
- 2.8 The Appellant notes in respect of the test of reasonableness (referred to as “Test 6”), that it is unreasonable to permit the development for a temporary period due to the level of monetary contributions required to bring the development into use. The LPA would highlight that the legal agreement was completed on 19th January 2024, this being 6 months after the application was recommended for approval at the Planning Committee Meeting on 26th July 2023, allowing more than sufficient time to address the point now raised at appeal. The contribution is required to mitigate the air quality harms generated by increasing the usage of the site. The Appellant did not contest this point and the recommendation to approve the

application subject to a Section 106 legal agreement, made by Committee Members, was carried forward and secured.

2.9 For the avoidance of doubt, and without prejudice to the Council's case, the LPA's recommended list of amended conditions is provided at Appendix 7. Aside from the matter of securing a temporary 24-month consent, Committee Members required the following amendments to conditions:

- Condition 9 be amended to ensure that activities are supervised by a Coach or Club Member and that no championships or tournaments are held at the application site; and
- Condition 15 be amended to secure a noise complaint procedure.

The LPA would emphasise that these amendments are material to the permission granted and are reasonable in ensuring that any harms that arise are appropriately managed and mitigated. The LPA would respectfully request that these amendments are carried forward in the event that the appeal is allowed.

3.0 Conclusion

3.1 For the reasons set out in this SoC, the LPA requests that the permission granted should remain as temporary in accordance with the decision ratified by Planning Committee. The Inspector is respectfully requested to dismiss the appeal.

3.2 If the Inspector considers the appeal should be allowed, and without prejudice to the Council's case, the LPA's recommended list of amended conditions is provided at Appendix 7.

4.0 Appendices

4.1 Appendix 1 – Committee Report

Appendix 2 – Decision Notice

Appendix 3 – Copy of Section 106 Legal Agreement

Appendix 4 – Copies of Relevant Planning Policies

Appendix 5 – Planning Committee Meeting Minutes

Appendix 6 – Temporary Permission Email Correspondence

Appendix 7 – The LPA's Recommended Amended Conditions