

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration
Department

PLANNING SUB-COMMITTEE B		
Date:	25 th July 2017	NON-EXEMPT

Application numbers	P2017/0819/S73
Application types	Section 73 (Minor Material Amendment)
Ward	Caledonian
Listed building	No
Conservation area	No
Development Plan Context	Within 50m of Conservation Area
Licensing Implications	None
Site Address	Playground Between 92 And 94, Bride Street [Westbourne Estate Pitch], London, N7
Proposals	Section 73 application to vary Condition 2 (Drawings) of Planning Permission reference P2015/3442/FUL for the 'refurbishment of pitch to include artificial turf pitch, plus new entrance with ramp, cycle stands, associated fencing, lighting and safety surfaces.' Amendment sought for the erection of a 1m high polypropylene net and wire on top of existing fence to eastern boundary (Original application P2015/3442/FUL).

Case Officer	Joe Aggar
Applicant	Mr Alex Sarson
Agent	Mr Paul Ruse

1 RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission;

i) subject to the conditions set out in Appendix 1

ii) and conditional upon the completion of a Director's Service Level Agreement securing the heads of terms set out in Appendix 1.

2. SITE PLAN (site outlined in black)



3. PHOTOS OF SITE/STREET



Image 1 - Aerial photograph showing the playground between 92 and 94 Bride Street



Image 2 - Aerial photograph showing the playground between 92 and 94 Bride Street.



Image 3 – View of playground looking east.



Image 4 – View of football pitch looking south

4 SUMMARY

- 4.1 The proposal seeks an amendment to previous approved planning permission P2015/3442/FUL, approved 18/04/2016. This original application was for the refurbishment of pitch to include an artificial 3G pitch, plus new entrance with ramp, Sheffield cycle stands, associated fencing, and 4x8m high lighting columns and safety surfaces. These proposals have been implemented. The steel mesh fencing has been removed and specialist sport rebound fencing to a height of 4m plus two gates have been installed to the pitch area. The bitumen and safety surfaces to the playground area have been replaced throughout and existing equipment cleaned and upgraded.
- 4.2 The amendment now sought to Condition 2, drawings approved, is for the erection of a 1m high polypropylene net and wire on top of the existing fence to the eastern boundary. The purpose of the additional netting is to prevent balls going over the top of the existing fencing and into neighbouring gardens.
- 4.3 The main issues arising from this amended application relate to proposed design and appearance; neighbouring amenity; landscaping, and trees.
- 4.4 The design, layout and scale of the proposed development and proposed amendment to the height of the fencing to the eastern boundary are considered acceptable and would not detract from the appearance of the streetscape. The proposal is considered not to prejudice the residential amenity of neighbouring properties insofar as loss of light, outlook, sense of enclosure and disturbance in line with policy DM2.1 of the Islington Development Management Policies June 2013.
- 4.5 Overall, the proposal is considered to be acceptable and is in accordance with the Development Plan policies and planning permission subject to conditions and Directors Service Level Agreement is recommended.

5 SITE AND SURROUNDING

- 5.1 The site is located on what is known as the Westbourne Estate. The pitch fronts onto the north side of Bridge Street and is located between two, back to back, residential terraces. The site includes a playground area to the north which is used in conjunction with the pitch. The previously approved scheme has been implemented and as such the pitch now consists of an artificial 3G pitch, surrounded by four 8m high lighting columns and a specialist sport rebound fence.
- 5.2 The surrounding area is residential in character and appearance with the immediate vicinity being predominantly residential. The existing site is not statutorily listed nor is it located within a conservation area.

6 PROPOSAL (in Detail)

- 6.1 The application seeks to vary planning permission P2015/3442/FUL to allow for the installation of a 1m high polypropylene net strung mesh, strung vertically between a horizontal stainless steel straining wire and the top of the existing fence. The proposed netting is to be UV stabilised and rot proof. The mesh would be galvanised and powder coated dark green (RAL 6005) to match the existing fencing.
- 6.2 The application has been referred to the planning sub-committee as this is a council own application.

7 RELEVANT HISTORY:

PLANNING APPLICATIONS

- 7.1 Playground Between 92 And 94, planning application re: P2016/1481/AOD for the 'Submission of details pursuant to conditions 3 (Facing Materials), 6 (Details of lighting), 7 (Noise Management Plan) and 8 (Drainage Strategy) of Planning Permission ref: P2015/3442/FUL dated 18 April 2016' was GRANTED on the 29/07/2016.
- 7.2 Playground Between 92 And 94, planning application re: P2015/3442/FUL for the 'Refurbishment of pitch to include artificial turf pitch, plus new entrance with ramp, cycle stands, associated fencing, lighting and safety surfaces' was GRANTED on the 18/04/2016.

ENFORCEMENT:

- 7.3 None.

PRE-APPLICATION ADVICE:

- 7.4 Prior to application reference P2015/3442/FUL, Pre-application Duty Meeting for 'proposed refurbishment of games pitch.'
- 7.5 In principle, the upgrading of the football pitch was considered acceptable. The issue that upgrading the facility would make it more attractive was raised and therefore will be more intensively used. This may have implications for adjacent residents, and their amenity will need to be safe guarded.
- 7.6 There was no objection to the relocation of the light column, and additional light columns may be acceptable subject to these not affecting residents from light pollution. Details of the surfaces and the alterations to the fencing and walls surrounding the pitch were required. Also, details of times of uses and security measures when the pitch is not being used were required.

8 CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of 109 adjoining and nearby properties at Roman Way, Vulcan Way, Davey Close, Atlas Mews and Bride Street.
- 8.2 A site notice was also displayed near the site. Consultation expired on the 13th April 2017. However, it is the Council's practice to continue to consider representations made up until the date of a decision. Members will be updated at committee of any additional responses received.
- 8.3 At the time of writing this report 1 response had been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Suggest that the additional netting is erected on all sides of the pitch (10.11)
 - Climbing on to the wall that runs along Bride Street & gaining access to the pitch over the wall (10.12)
 - The pitch is closed on Sundays but regularly see people playing football on the pitch as they have entered by climbing on the wall (10.12)
 - Balls being kicked over the existing fencing regularly to all the surrounding areas outside of the pitch which causes disruption (10.5)

External Consultees

8.4 None

Internal Consultees

8.5 **Tree Preservation Officer:** satisfied that the impact to the adjacent trees is minimal. There are no arboricultural reasons to object to the application.

8.6 **Environmental Protection:** no objections

8.7 **Design and Conservation officer:** no objections

9 RELEVANT POLICIES

9.1 Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following development plan documents.

National Guidance

9.2 The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

9.3 Since March 2014 Planning Practice Guidance for England has been published online.

Development Plan

9.4 The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 1 to this report.

Designations

9.5 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011 and Development Management Policies 2013.

The site has is located within 50m of a conservation area.

Supplementary Planning Guidance (SPG) / Document (SPD)

9.6 The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

10 ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Acknowledgement of the scope of what may and may not be considered under Section 73 of the Town and Country Planning Act 1990
- Nature of the variation and whether the change(s) materially/adversely alter the nature of the scheme

Scope of the Consideration of the Case Under Section 73 of the T&CPA

10.2 Section 73 of the Town and Country Planning Act 1990 concerns 'Determination of application to develop land without compliance with conditions previously attached'. It is

colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. The NPPG advises, where an application under s73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.

- 10.3 It is important to note that when assessing s73 applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.4 Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the previous paragraphs and the applicant's ability to complete the originally approved development.

The Variation

- 10.5 As part of the previous proposal (P2015/3442/FUL) to the Multi Use Games Area (MUGA) the application proposed the removal of existing steel mesh fencing and erection of a sports rebound fence fitted at pitch level. The overall height of this would reach 4m. The top 1m is pointed inwards towards the football pitch. Through the recent use of the pitch after the refurbishment, it has been acknowledged that the sport rebound fencing has not prevented balls escaping the pitch area and entering the nearby properties. This application proposes to extend above the eastern boundary by 1m with a vertical net to mitigate this situation and contain the balls within the MUGA.
- 10.6 Islington's Planning Policies and Guidance encourage high quality design which complements the character of an area. In particular, policy DM2.1 of Islington's adopted Development Management Policies requires all forms of development to be high quality, incorporating inclusive design principles while making a positive contribution to the local character and distinctiveness of an area based upon an understanding and evaluation of its defining characteristics.
- 10.7 The proposed netting would be positioned closest to properties no. 14 Atlas Mews and no. 92 Bride Street. These properties have a particularly sensitive relationship to the site being positioned directly to the eastern boundary. To the west is a footpath with the adjoining properties beyond. The footpath provides a degree of relief.
- 10.8 The proposed netting would sit 1m above the existing sport rebound fencing which totals 4m in height. The top element of the sport rebound fence is cantilevered inwards over the sports pitch. The netting would adjoin at the top of the fencing.
- 10.9 It should be noted there is existing trellising on top of the boundary wall at 14 Atlas Mews, the proposed netting would not rise noticeably above this existing boundary treatment. Moreover, the netting would be permeable and set approximately 2m off the boundary with adjoining neighbours. The overall design and scale of the proposed netting to eastern boundary is not considered to be excessive nor visually harmful. Therefore, the outlook from the rear of the adjoining properties will not be harmed and it is considered that there will be no material loss of outlook or greater sense of enclosure to any adjoining properties in relation to the proposed development. As such the proposal is considered in line with Policy DM2.1 of the Development Management Policies.
- 10.10 In design terms the proposal overall is considered modest and practical to suit the function of the MUGA. The proposed additional height on the boundary is mitigated by it being a visually permeable barrier. Taking into account the overall improvements as part of the original application and given the above improvements to this aspect of the estate, the

proposal is considered to be consistent with the aims of Council objectives on design and in accordance with policies 7.4 (Character) of the London Plan 2016, CS8 (Enhancing Islington's character) of the Core Strategy 2011 and Development Management Policy DM2.1.

Other Matters

- 10.11 The proposal is for netting to the eastern boundary only. It is pertinent that the application can only be considered on its own merits and the requirement for any further additional netting to all sides of the MUGA pitch falls outside of the scope of this assessment.
- 10.12 A Directors' Service Level agreement would form part of any permission to secure a Community Use and Management Agreement to ensure adequate levels of protection and to minimise impacts on the living conditions of the neighbouring occupiers to Atlas Mews and Bride Street.

11 SUMMARY AND CONCLUSION

Summary

- 11.1 In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Core Strategy, the Islington Development Management Policies and associated Supplementary Planning Documents and should be approved accordingly.

Conclusion

- 11.2 It is recommended that planning permission be granted subject to conditions and Directors' Service Level Agreement as set out in Appendix 1 – RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That planning permission be granted subject to the prior completion of a Directors' Service Level Agreement between the Director of Children's Services and the Director of Environment and Regeneration to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development/Head of Service – Development Management or in their absence the Deputy Head of Service:

1. A Community Use and Management Agreement to ensure suitable management and community use.

RECOMMENDATION B

That the grant of planning permission be subject to conditions to secure the following:

1	Commencement
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of 18/04/2019.</p> <p>REASON: To ensure the commencement timescale for the development is not extended beyond that of the original planning permission granted on 18/04/2016 [LBI ref: P2015/3442/FUL]. Furthermore, to comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5)</p>
2	Approved plans list
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>IS065-LOC_001; IS065-SE_015; IS065-SE_016; IS065-SE_017; Westbourne Estate Pitch Proposed Net Modification; IS065-GA_018; IS065_EAS_010. PS-019</p> <p>REASON: To comply with Section 70(1) (a) of the Town and Country Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
3	Materials
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <ol style="list-style-type: none">a) Samples of all boundary treatmentb) Paving details;c) Details of proposed lighting;d) Any other materials to be used. <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
4	Hours of Operation
	CONDITION: The proposed all weather football pitch shall operate only

	<p>between the hours of 09:00-20:30 Monday to Friday, 10:00-18:00 Saturdays and not at all on Sundays or Bank Holidays.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
5	Lighting Hours
	<p>CONDITION: The Multi Use Games Area floodlighting shall be operated during the hours of 09:00-20:30 Monday to Friday and 10:00-18:00 Saturdays only. Usage within these hours shall be controlled by a photocell detector and timer switch.</p> <p>REASON: To ensure that any resulting general or security lighting does not adversely impact neighbouring residential amenity</p>
6	Lighting
	<p>CONDITION: No development shall take place until a report detailing the lighting scheme and predicted light levels at neighbouring residential properties has been submitted to and been approved in writing by the Local Planning Authority.</p> <p>Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E3 contained within Table 1 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005.</p> <p>REASON: To ensure that any resulting general or security lighting does not adversely impact neighbouring residential amenity.</p>
7	Noise Management Plan
	<p>CONDITION: A Noise Management Plan assessing the impact of the Multi Use Games Area shall be submitted to and approved in writing by the Local Planning Authority prior to the ball court use commencing on site. The report shall assess impacts during the operational phase of the ball court on nearby residents and other occupiers together with means of mitigating any identified impacts. The ball court shall be operated strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: To ensure the proposal does not adversely impact on neighbouring residential amenity.</p>
8	Drainage Strategy
	<p>CONDITION: Details of a drainage strategy for a sustainable urban drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site.</p> <p>The Drainage Strategy shall include the following details:</p> <p>a) A drainage plan detailing the proposed method for disposing of surface water by means of appropriate sustainable drainage systems. The submitted details shall include the scheme's peak runoff rate and storage volume and demonstrate how the scheme will achieve no net increase in surface water runoff from the site post-development.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of sustainability.</p>
9	Fencing
	CONDITION: The rebound fencing shall be installed and carried out in

	<p>accordance with the details so approved and maintained as such thereafter.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
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List of Informatives:

1	Positive statement
	<p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website. A pre-application advice service is also offered and encouraged. Whilst no pre-application discussions were entered into, the policy advice and guidance available on the website was followed by the applicant. The applicant therefore worked in a proactive manner taking into consideration the policies and guidance available to them, and therefore the LPA delivered a positive decision in accordance with the requirements of the NPPF.</p>
2	Surface Water Drainage
	<p>It is the responsibility of a developer to make proper provision for drainage to ground, water course or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.</p>
3	Signage
	<p>Please note that separate advertisement consent application may be required for the display of signage at the site.</p>
4	Service Level agreement
	<p>Your attention is drawn to the fact that this grant of permission is subject to a Service Level agreement.</p>
5	Highways
	<p>- Compliance with sections 168 to 175 and of the Highways Act, 1980, relating to "Precautions to be taken in doing certain works in or near streets or highways". This relates, to scaffolding, hoarding and so on. All licenses can be acquired through streetworks@islington.gov.uk. All agreements relating to the above need to be in place prior to works commencing.</p> <p>- Compliance with section 174 of the Highways Act, 1980 - "Precautions to be taken by persons executing works in streets." Should a company/individual request to work on the public highway a Section 50 license is required. Can be gained through streetworks@islington.gov.uk. Section 50 license must be agreed prior to any works commencing.</p> <p>- Compliance with section 140A of the Highways Act, 1980 – "Builders skips: charge for occupation of highway. Licenses can be gained through streetworks@islington.gov.uk. Joint condition survey required between Islington Council Highways and interested parties before commencement of building works to catalogue condition of streets and drainage gullies. Contact highways.maintenance@islington.gov.uk Approval of highways required and copy of findings and condition survey document to be sent to planning case officer for development in question.</p>
6	Hours of Working

	<p>The applicant is advised that the accepted working hours for development within the borough are: 8:00am-5:00pm on Mondays to Fridays, 9:00am-1:00pm on Saturdays and not at all on Sundays, Bank or Public Holidays.</p>
7	Building Regulations and Party Wall
	<p>You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations, the Party Wall Act as well as Environment Health Regulations.</p>
8	Discharged Conditions
	<p>The details submitted to the Local Planning Authority on 18/04/2016 pursuant to 3 (Facing Materials), 6 (Details of lighting), 7 (Noise Management Plan) and 8 (Drainage Strategy) of Planning Permission Reference: P2015/3442/FUL [LBI Ref: P2016/1481/AOD] and approved by the Local Planning Authority on 29/07/2016 are deemed to form the approved details for the purposes of these conditions.</p>

APPENDIX 2: RELEVANT POLICIES

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

1. National and Regional Guidance

The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

- NPPF - Policy 12 - Conserving and Enhancing the Historic Environment
- Planning Practice Guide (2014)

2. Development Plan

The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

A) The London Plan 2016 - Spatial Development Strategy for Greater London

5 London's response to climate change

Policy 5.3 Sustainable design and construction
Policy 5.10 Urban greening
Policy 5.12 Flood risk management
Policy 5.13 Sustainable drainage

6 London's transport

Policy 6.2 Providing public transport capacity and safeguarding land for transport
Policy 6.3 Assessing effects of development on transport capacity
Policy 6.7 Better streets and surface transport
Policy 6.10 Walking

7 London's living places and spaces

Policy 7.1 Building London's neighbourhoods and communities
Policy 7.2 An inclusive environment
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.11 London View Management Framework
Policy 7.15 Reducing noise and enhancing soundscapes use

8 Implementation, monitoring and review

Policy 8.1 Implementation
Policy 8.2 Planning obligations

B) Islington Core Strategy 2011

Policy CS8 (Enhancing Islington's Character)
Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)
Policy CS10 (Sustainable Design)
Policy CS15 (Open Space)

Policy CS18 (Delivery and Infrastructure)
Policy CS19 (Health Impact Assessments)
Policy CS20 (Partnership Working)

C) Development Management Policies June 2013

Design and Heritage

DM2.1 Design

DM2.2 Inclusive Design

Health and Open Space

DM6.1 Healthy development

DM6.2 New and improved public open space

DM6.4 Sport and recreation

DM6.6 Flood prevention

Energy and Environmental Standards

DM7.4 Sustainable design standards

Transport

DM8.1 Movement hierarchy

DM8.2 Managing transport impacts

DM8.3 Public transport

DM8.4 Walking and cycling

Infrastructure

DM9.2 Planning obligations

DM9.3 Implementation

3. Designations

The site has the following designations under the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:

Islington Local Plan

- Within 50m of a Conservation Area

4. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

Islington Local Plan

- Environmental Design
- Inclusive Landscape Design
- Planning Obligations and S106
- Urban Design Guide

London Plan

- Accessible London: Achieving an Inclusive Environment
- Sustainable Design & Construction
- Planning for Equality and Diversity in London