



## Appeal Decision

Site visit made on 17 July 2018

by **Helen Hockenhull BA(Hons) B.PI MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2018

**Appeal Ref: APP/N1350/W/18/3198036**

**Darlington Cricket and Athletic Club, South Terrace, Feethams, Darlington, DL1 5JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Darlington Cricket and Athletic Club against the decision of Darlington Borough Council.
- The application Ref 17/00282/FUL, dated 31 March 2017, was approved on 2 October 2017 and planning permission was granted subject to conditions.
- The development permitted is the construction of all-weather cricket practice area incorporating 2 lanes contained within cages and nets.
- The conditions in dispute are Nos. 2 and 7.  
Condition 2 states that:  
The practice area shall not operate outside the following hours:
  - a) 10:00 until 19:00 on a Monday.
  - b) 10:00 until 19:30 on a Tuesday
  - c) 10:00 until 19:00 on a Wednesday
  - d) 10:00 until 19:30 on a Thursday
  - e) 10:00 until 18:00 on a Friday
  - f) 10:00 until 13:00 on a Saturday
  - g) 10:00 until 12:00 on a Sunday
 Condition 7 states that :  
The nets shall not be erected on site between 15<sup>th</sup> September and 15<sup>th</sup> April.
- The reason given for the conditions are: In the interest of residential amenity.

### Decision

1. The appeal is allowed in part and the planning permission Ref 17/00282/FUL for the construction of all-weather cricket practice area incorporating 2 lanes contained within cages and nets at Darlington Cricket and Athletic Club, South Terrace, Feetham, Darlington DL1 5JD granted on 2 October 2017 by Darlington Borough Council, is varied by deleting condition 7 and substituting it for the following condition:
  - 7) The nets shall not be erected prior to the month of April and shall be removed prior to the end of September in any year.

### Procedural Matter

2. The all-weather cricket practice area has already been erected and is in use. It therefore forms retrospective development and I shall determine the appeal on this basis.

3. Condition 2 imposes restrictions on the hours of use of the cricket facility and imposes different times on different days. The appeal relates to the hours of operation specified for Monday to Thursday (a-d). The appellant seeks a variation of this condition to allow the use of the facility for an hour longer on these days.

### **Main Issue**

4. The main issue is whether the conditions in dispute are reasonable and necessary in the interests of safeguarding the living conditions of the occupants of neighbouring residential properties with particular regard to privacy and noise.

### **Reasons**

5. The cricket practice nets are located on the southern boundary of the cricket pitch approximately a metre from the rear boundary of recently constructed residential properties. The properties form three storey and two and a half storey townhouses. The rear gardens lie above a retaining wall, approximately 2 metres above the cricket ground and are enclosed by metal railings. The houses also have rear balconies at first floor or balconies in the roof space which overlook the ground.
6. I am advised that the new facility replaced a smaller practice area which was also located close to the southern boundary. However this original provision was in a slightly different position, orientated at right angles to the new residential properties and not east/west along the shared boundary.
7. The development is located very close to the rear gardens of the neighbouring residential properties. A level of noise from bats hitting balls, balls hitting the frame and from players and spectators would be unavoidable. I understand that there may be up to 20 and possibly more users/spectators present at one time. I acknowledge that younger children may use soft balls which would reduce the level of noise when batting; however this would have no effect on noise from talking etc. Whilst a handful of users of the facility may be tolerable, a larger number would result in a significant level of noise and general disturbance. This would adversely affect the ability of neighbouring residents to enjoy the use of their rear garden and balcony areas.
8. The open mesh ball stop fence on the site boundary and the metal railings to the rear garden areas, allow clear views between users of the practice area and neighbouring residents using their rear gardens and balconies. The position of the practise nets close to the rear boundary of the cricket pitch, results in a significant loss of privacy for residential occupiers.
9. I acknowledge the difficulties for all parties with residential properties sited so close to the boundary of the cricket pitch. However on the basis of the evidence before me and my site visit, I conclude that condition 2 as imposed by the Council is reasonable and necessary and should be retained. It strikes a balance between safeguarding the living conditions of the adjacent residential occupiers and allowing the Club to operate and continue to provide sporting opportunities to young people.
10. Turning to condition 7, this requires the nets to be removed between 15<sup>th</sup> September and 15<sup>th</sup> April. The Cricket Club have advised that the nets would

be erected shortly before the cricket season in April and removed once the season has ended in September.

11. I note that condition 8 of the planning permission, which is not in dispute, restricts the use of the artificial ground covering between 15<sup>th</sup> September and 15<sup>th</sup> April, complementing the dates in condition 7. The amendment of condition 7 as requested would allow time for the nets to be erected and removed without impinging on the period when the practice area could actually be used. It would also give the Club some flexibility in terms of the start and finish dates for the season, which could be slightly different each year.
12. On the basis of the evidence before me, and having regard to condition 8, I am not persuaded that allowing the nets to be in place for a further 2 weeks either end of the cricket season, would have any significant adverse effect on the living conditions of the neighbouring occupiers. I accept that if the nets were in place outside the permitted period of use, then this may encourage the use of the facility in breach of condition 8. However this would be a matter for the Club to manage and if necessary for the Council to take enforcement action.
13. I therefore consider that condition 7 as drafted is not necessary or reasonable. The amendment sought, requiring the nets to be removed between the end of September and the beginning of April would be acceptable. It would comply with Policies CS2 and CS16 of the Darlington Core Strategy which aim to achieve high quality design and protect the amenities of the community.

### **Conclusion**

14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed to the extent described. Therefore, I will vary the planning permission by deleting condition 7 and substituting it as detailed above.

*Helen Hockenhull*

INSPECTOR

