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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2021/0698/FUL	ITEM 3	
Proposal:	Construction of a new artificial multi use games area (MUGA) with associated sports lighting, fencing and ancillary features for pupils at Brooke Priory School. Includes a change of use from domestic gardens to school.		
Address:	Brooke Priory School, Station Approach, Oakham, Rutland, LE15 6QW		
Applicant:	Mr Michael Allen Brooke Priory School	Parish	Oakham
Agent:	Mr Brian Mullin Marrons Planning	Ward	Oakham North-East
Reason for presenting to Committee:	Member request		
Date of Committee:	23 November 2021		
Extension of Time	26 November 2021		

EXECUTIVE SUMMARY

The use is inappropriate due to its close proximity to residential properties, and would have a detrimental impact upon their residential amenity. The changes to the scheme from the earlier refusal would not abate this impact. It is also unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal would not result in flooding within the area.

RECOMMENDATION

REFUSAL, for the following reasons:

1. The unauthorised change of use and physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35m depth to approximately 12 metres under the current proposal. It is considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing quality of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
2. It is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal will not result in flooding within the area. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Site & Surroundings

1. The application site is located on what was previously the rear garden area of a row of terrace properties north of the town centre. The site is also within Oakham Conservation Area.
2. The school to the north of the site has bought the terrace houses and associated gardens, and the application site has been physically separated by fencing from the terrace houses, with the land cleared of vegetation.

Proposal

3. The proposal is to use this land as a Multi-Use Games Area (MUGA). This includes the installation of sports flood lighting, fencing and ancillary features. Pedestrian and vehicular access to the site would be via an existing vehicular access off Station Road.
4. In addition to this, a change of use is sought for the change of use of the residential garden areas of the terrace properties that have been fenced off.
5. Proposed hours of use for the MUGA would be 8:00-18:00 Monday to Friday. The largest marked-out pitch area would measure 36m x 21m. Perimeter fencing would be 3m high rigid panel mesh, and floodlighting would be four post columns in each corner of the site, housing LED luminaires at a height of 8 metres. Ancillary features would be a storage container, a wooden storage bench, and no. 2 steel-framed shelters.
6. A similar application was refused planning permission on this site earlier this year under delegated powers (2020/0122/FUL) for the following reason;

'The unauthorised change of use and physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35m depth to approximately 6.5 metres. It is considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing quality of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road. As such the development would be contrary to Section 12 of the NPPF (2019), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).'

7. In response to this refusal the applicant has altered the plans to show an increase in the lengths of the truncated gardens to the terrace properties owned by the school to approximately 12m in length. This has been achieved by removing the previously proposed cricket net at the southern boundary of the site closest to the residential properties.
8. The objections from local residents and the Ward Member are noted and have been given due consideration, as have other consultee comments.
9. The proposed plans are attached as an appendix.
10. The applicant's agent in response to consultation response from LLFA and RC Highways has stated that;

'...We noted with some concern an allegation of "severe" adverse residential impacts in the objection letters. This is not an accurate characterisation of how the educational activities would impact neighbouring residential properties.

A condition controlling the hours of use of the MUGA (thereby preventing weekend and afterschool use by third parties), in addition to limiting use of the facility only to the school, will ensure that only the school will use it only during their opening hours, and that the impacts (whilst no doubt perceptible during supervised physical education sessions) will neither be severe, nor unacceptable.

The proposals will provide a valuable educational facility to enhance the PE curriculum at the school, and in our view, this is achievable without compromising the rights of surrounding residents to experience peaceable enjoyment of their own gardens. We are optimistic that there will be a site visit during school hours so that the noise from outdoor physical education classes can be experienced by the Members to enable them to come to their own judgement. ...'

Relevant Planning History

Application	Description	Decision
2020/0122/FUL	Construction of Multi Use Games Area	Refused

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 8 - Promoting healthy and safe communities

Chapter 12 - Achieving well-designed places

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

Core Strategy DPD

CS07 - Delivering Socially Inclusive Communities

CS19 - Promoting Good Design

CS21 - The Natural Environment

CS22 - The Historic and Cultural Environment

CS23 - Green Infrastructure, Open Space, Sport and Recreation

Site Allocations and Policies DPD

SP5 - Built Development in the Towns and Villages

SP15 - Design and Amenity

SP17 - Outdoor Lighting

SP19 - Biodiversity and Geodiversity Conservation

SP20 - The Historic Environment

Oakham Neighbourhood Plan

An Independent Examiner has been appointed to examine the plan; it does not carry any material planning weight at this stage.

Consultations

Oakham Parish Council

11. Recommend approval but have concerns over the lighting near the residents' properties. Sports lighting not to be installed.

Highway Authority

12. In response to addition information submitted RCC Highways have raised objection Stating that 'It is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA. If Planning are minded to approve the application, this concern could be addressed by way of a suitably worded condition.
13. No objection to earlier application, subject to condition on external illumination.
'The proposed light source shall be so positioned and shielded, in perpetuity, to direct light away from the Highway.
The only lighting that may affect the highway is the flood lights positioned in the south-west corner of the site, or those pointing towards the south-west corner'

Ecology

14. No objections. I note that I made comments on an earlier planning application - 2021/0122/FUL - for this site. My previous comments still stand, and I cannot object to this planning application on ecology grounds.
15. The site is in an urban area with minimal vegetation. The areas adjacent to the site are lit by street lighting, therefore it is unlikely that the development will impact foraging bats. Part of the development will utilise existing back gardens which may result in a loss of vegetation but is unlikely to impact protected species. Therefore, ecology surveys are not required.
16. With regard to the loss of garden vegetation, compensatory planting of locally native species, elsewhere on the site would be welcomed.

Public Protection

17. No comments offered for current application – previous application comments as follows – 'I see the sites lighting has been designed to meet the E2 environmental zone as contained in the Institute of Lighting Professionals guidance notes on the reduction of obtrusive lighting. If timings and days of usage were limited to those expressed in the table of paragraph 3.2 of the Design and Access Statement then the impact on the adjacent residential premises would be limited and we would have no objection in terms of noise or lighting.'

Conservation Officer

18. (Verbal) Given its set back from prominent public viewpoints, and screening due to its location to the rear of the residential properties and adjacent land uses to the west and north, I would not wish to offer an objection on the grounds of detrimental impact upon the character or appearance of Oakham Conservation Area.

Local Lead Flood Authority

19. 'The drainage drawing for the application shows the pitches connecting "to existing outfall" – please could the applicant advise where this outfall goes, what other water is in this outfall and what the discharge rate will be to this outfall.
20. The system may not be able to cope with this additional flow and some of this surface water would have naturally soaked into the ground as the land was used as gardens.
21. Please could the applicant advise if the pitches will be used for other students other than Brooke Priory pupils and whether it will be rented out to sports teams?'

22. In response to the receipt of amended drawings and additional information received from the applicant's agent further comments have been received stating;

'...I note the invert level nor the discharge rate (existing or proposed) at the outfall have been provided. In addition it is not clear what the pipe diameter is beyond the proposed outfall point. This information is required to ensure the proposed drainage system is adequate.

I also note there appears to be a new hard paved area to the south of the MUGA between the existing access and the MUGA. Where will this area drain to, and what are the levels? Will surface water fall towards the public highway? Please note that private surface water must not flow on to the public highway. If the levels are such that this occurs, then additional drainage such as an access drain will be necessary across the existing access in the private area to capture any runoff before it enters the public highway.

I note from previous correspondence with Robyn, that you confirmed that the MUGA will be used only by pupils of the school within school times only. May I ask what the purpose of retaining the existing access off Station Road please? Is this for maintenance vehicles only? And how often are these vehicles going to be visiting the site?

I note there is an area outside of the site edged red, but within the blue edged site, to the side of this access. Will that be used for parking? I have looked through all the information on the portal including the design and access statement and it is not clear

At present, due to the above comments, the LHA and LLFA are unable to support this application for the following reasons:-

It is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall. Reason: In the interests of ensuring the proposal will not result in flooding within the area.

It is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA. If Planning are minded to approve the application, this concern could be addressed by way of a suitably worded condition....'

Sport England

23. The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), whilst the school 'whole site' a playing field the location of the proposed MUGA is physically and functionally separate from and does not prejudice the use of the playing field. However, Sport England would wish to give the following advice to aid the assessment of this application.
24. General guidance and advice can however be found on our website: www.sportengland.org/planningapplications
25. The proposal involves sports facilities or facilities which encourage active recreation. Sport England supports the principle of facilities which encourage people who are inactive to be active and proposals which are in accordance with both government's Sporting Futures Strategy and Sport England new Strategy.
26. Our new Strategy 'Uniting The Movement' is a 10-year vision to transform lives and communities through sport and physical activity. We believe and will advocate sport and

physical activity as a big role to play in improving the physical and mental health of the nation, supporting the economy, reconnecting communities and rebuilding a stronger society for all. We will be a catalyst for change and join forces on 5 issues which includes connecting communities, connecting with Health and Wellbeing and Active Environments.

The new strategy can be downloaded from our website

27. We would in this regard support the use of the facility by the wider community, however, as the proposal does not involve the loss of playing field area, it is not something that we would actively pursue through a community use agreement. Similarly as the proposal does not result in the loss of playing field we would not seek to ensure that the proposal meets a strategic or wider sports development need. It is for the applicant to ensure that the specification of the facility is appropriate to their own needs for school sport development. In addition, it is not our role, in applications of this type, to comment on the suitability of the location, impacts upon residential amenity or other material considerations which may be appropriate in the determination of the application.
28. In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), we consider that the proposal will provide opportunities for school students to lead healthy lifestyles and create healthy communities..

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Note:- There is a free online resource from Sport England (Use Our School) that offers further guidance and information for local authorities and other education providers on how to make the best use of school facilities for the benefit of the local community. It is especially useful for those who have responsibility within a school for establishing, sustaining and growing community activity on school sites. 'Use Our School' can be accessed here; www.sportengland.org/useourschool

29. This response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

Neighbour Representations

30. 4 objections received from the local residents, on the following grounds;
 - Detrimental impact upon residential amenity/Too close to residential properties
 - Loss of land formerly garden area to terrace houses – gardens have now been truncated/loss of green space
 - Light pollution from floodlighting during evening – is lighting necessary for school hours only?
 - Sound pollution and disturbance
 - Provision of floodlighting infers future prospect of use outside of school hours/evening
 - Resultant loss of habitat to variety of wildlife
 - School should consider developing a wildlife area/urban nature reserve to compensate
 - Oakham school have all weather surfaces that may be available for use/pupils have access to sports facilities
 - Possible increase in traffic/parking
 - Change of use of land will set an unwelcome precedent
 - Comments and observations on the assertions in the design and access statement

- Impact on bats from proposed floodlights/no ecology survey submitted – disagrees with LCC Ecology’s consultation comments
- Not sustainable development (replacement of trees/grass with plastic surface)
- Hours of use could change in future (condition)
- Height of lighting towers and fencing intrusive
- Detrimental impact on conservation area
- Pollution due to micro-fibre breakdown of AstroTurf (pollutant to animal life and children)
- Floodlighting would adversely change the nature of the residential area
- Application process – neighbour not consulted
- Reduction of development insufficient (pitch is still in the same location in relation to no. 87 & 85 Station Road.
- Lighting plan from previous application not carried over to this application

31. Additionally an objection has been received from Cllr Walters;

The decision notice from the original application lists a number of factors leading to the refusal.

This revised application does not adequately mitigate the substantive issue of the conversion of residential space and overbearing nature of the proposal in unacceptable proximity to residential dwellings with severe impact on residential amenity.

I ask that a further refusal notice is issued and that the applicant is instructed to convert all land to original use, and that failure to do so should result in enforcement notice.

Planning Assessment

32. The main issues are:

- Residential amenity
- Highways
- Conservation Area/Ecology
- Drainage

Impact on Residential Amenity

33. The unauthorised physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35 metres depth to approximately 6.5 metres for the previous refusal, and currently proposed to be 12 metres. Notwithstanding the change from the previous refusal, it is still considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties.
34. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing levels of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road). The changes to the scheme have not altered this position.
35. In establishing this position the comments from Public Protection regarding the proposed lighting and noise are noted, as are the proposed hours of use. Notwithstanding this, the close proximity and height of the proposed fencing and height of the lighting columns

would have a detrimental impact upon the openness and garden feel of these residential gardens (especially prior to the separation of the land via the erection of fencing).

36. In addition to this, while the school and its grounds are an existing use to the north of the site, the original length of the existing gardens for the terraces (as well as the existing gardens for the other houses along Station Road) provided/provides a buffer zone between the different use classes. Conversely, the proposed MUGA would bring a more intensive use much closer to these residential properties (not just the gardens but the houses as well), and in the case of no. 87 Station would result in their garden area being enclosed by the school use on two sides.
37. It is also acknowledged the school purchased the row of terrace properties to the south of the application site. However the quality and relationship of Rutland's housing stock should still be protected regardless of ownership.
38. The benefits of the proposal to the school in terms of P.E. curriculum is acknowledged, and has been assigned some weight, however this benefit would not outweigh or override the above identified detrimental impact upon the residential amenity of nearby residents.
39. Notwithstanding the changes to the scheme, it is still considered that the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
40. With regard to other points identified by the objectors;
 - Any planning application should be judged on its merits, as opposed to speculation on future uses.
 - With regard to the loss of green space, were the proposal otherwise acceptable in terms of residential amenity a condition could potentially be imposed to secure suitable mitigation within the school grounds.
 - One of the grounds of objection related to a neighbour not being notified; for clarification, the application has been publicised in accordance with statutory requirements and the Council's Statement of Community involvement. Neighbour notifications will normally be limited to properties sharing a common boundary with an application site. In this particular case further neighbour letters were issued beyond this given the nature of the application, though not as far as the neighbour concerned.

Highway/access issues

41. The vehicular access off Station Road is existing, and this would be used for construction access and maintenance access. Pedestrian access is also via Station Road. The proposal would result in adequate access and would not have an unacceptable adverse impact on highway safety in accordance with the Section 9 of the NPPF (2019).
42. However RCC Highways have raised objection to the proposal as is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA due to the lack of detailed information received.

Conservation Area/Ecology

43. At the Statutory level, the Local Planning Authority is required to ensure that with respect to any buildings or other land in a conservation area, special attention shall be paid to the

desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72.

44. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (NPPF 2019). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
45. The MUGA would be set back from Station Road and would not appear overly prominent within the streetscene given that it would be largely screened by the existing houses. Similarly the comments from the Conservation Officer are noted, and it is considered that the development would not cause harm to the character and appearance of Oakham Conservation Area, in accordance with Sections 12 and Section 16 of the NPPF (2021), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014).
46. With regard to impact on bats as a result of the proposed lighting, clarification has been sought with Leicestershire County Council Ecology colleagues, however as the site is within an urban area an objection could not be justified on ecology grounds.

Drainage

47. In response to the original consultation response from LLFA the applicant's agent has submitted additional information in the form of Micro-drainage calculation (permeable storage -1 in 100 year +40%, a surface water maintenance schedule based on monthly, annually and as required activities, and a revised drainage plan.
48. In response additional information provided The LLFA has maintained an objection to the proposed scheme as it is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall.
49. In addition it has been stated that it is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA.

Crime and Disorder

50. It is considered that the proposal would not result in any significant crime and disorder implications.

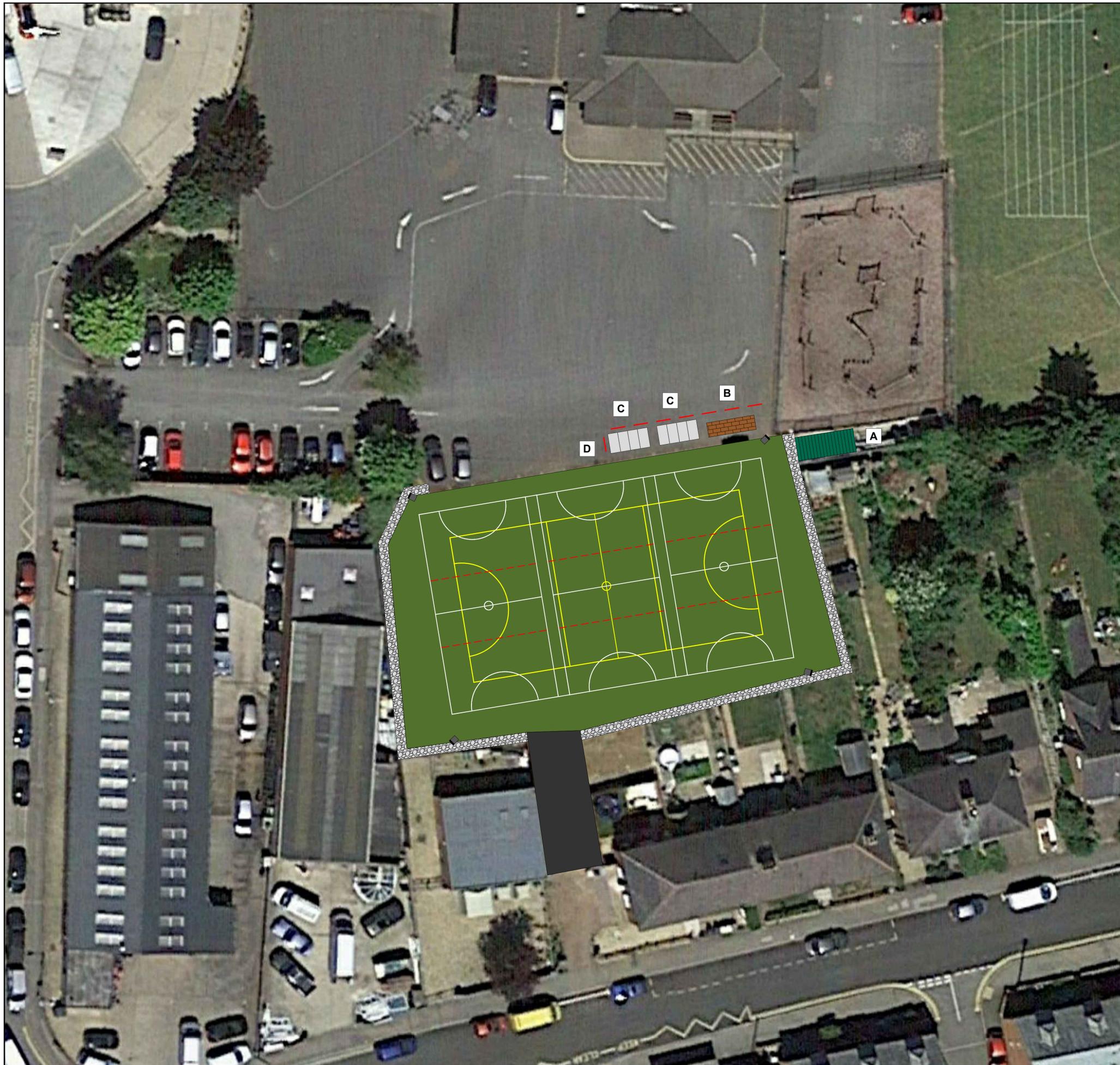
Human Rights Implications

51. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

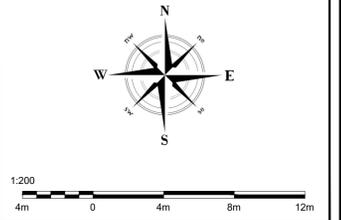
Conclusion

52. While the benefits to the P.E. curriculum and the school are acknowledged, as well as the changes to the scheme following the earlier refusal, this would not outweigh the detrimental impact upon the residential amenity of nearby residents that would result from the close proximity of the proposed use. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

53. It is also unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal will not result in flooding within the area. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
54. In addition to this, enforcement action is proposed to seek the re-instatement of the residential gardens of no. 95, 93, 91 & 89 Station Road.



NOTES / KEY:
PROPOSED WORKS
 ARTIFICIAL SAND DRESSED SURFACE - ■ [1,132M²]
 HARD STANDING TARMAC SURFACE - ■ [83M²]
 LOOSE STANDING STONE SURFACE - ■ [100M²]
 INDICATIVE LIGHTING SHOWN FOR ILLUSTRATIVE PURPOSES WITH ACCURATE LOCATIONS DETAILED IN SUPPORTING PLAN



Project name: Brooke Priory School
Project type: Artificial MUGA Development
Drawing: Aerial View
Reference: NSBPS001
Revision: E
Date: 24/05/21
Drawn by: JP
Scale / Size: 1:200 / A1

nottssport Synthetic Surfacing / Multi-Sports
 Head Office: Notts Sport Ltd, Bridge Farm, Holt Lane, Ashby Magna, Leicestershire, LE17 5NJ
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