

Planning Committee 19th September 2023
Report of the Head of Planning (Development Management)

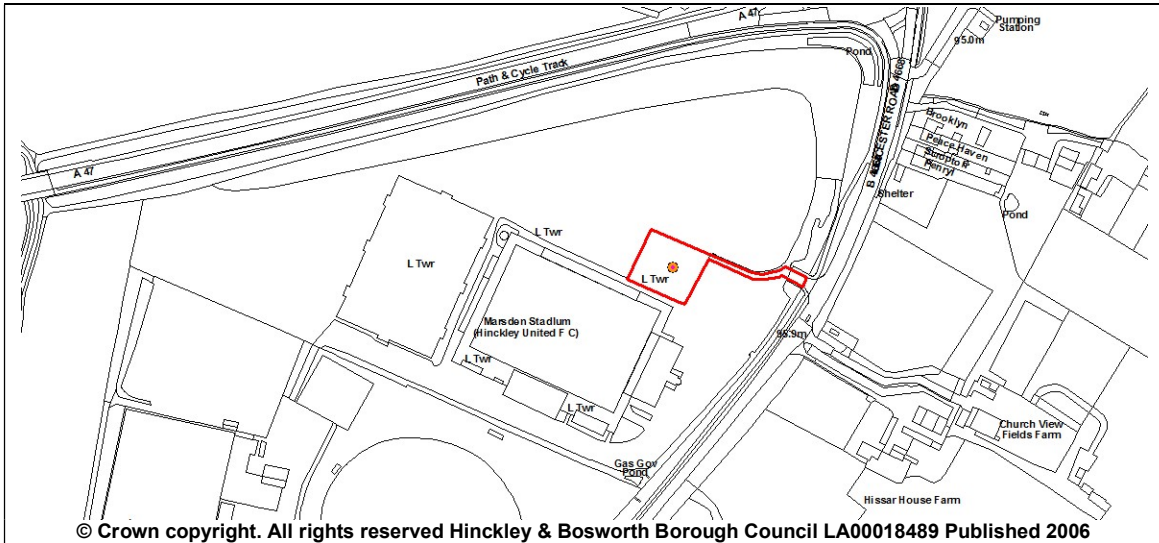


Hinckley & Bosworth
Borough Council

Planning Ref: 22/00224/FUL
Applicant: Leicester Road Football Club Ltd
Ward: Barwell

Site: Leicester Road Football Club, Leicester Road Football Ground. Leicester Road, Hinckley, Leicestershire

Proposal: Proposed development of a multi-use games area with associated floodlighting and fencing



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The proposed development is for the erection of a multi-use games area (MUGA) sports pitch. The MUGA pitch would measure 36m in length by 30m in width and would have a synthetic surface.
- 2.2. The MUGA would be bound by mesh fencing on all sides at a height of 4.5m, with a pedestrian access gate and separate vehicle access for pitch maintenance. The pitch would be lit by 10m floodlights for evening training. No parking is proposed as part of the proposals as there is considered to be sufficient provision at the wider site.

3. Description of the site and surrounding area

- 3.1. The application site extends to 0.1ha and comprises a vehicle access with tarmac surface alongside a grassed area which has lawful use (F2(c)) as an outdoor sports facility. The site forms part of the wider site which is an existing football club accessed from the B4668 Leicester Road. The site is located outside of the settlement boundary for Hinckley and within the area defined as Green Wedge.

- 3.2. The wider site is to the west of Leicester Road and includes a stadium and associated stands along with changing facilities, a gym and lounge/bar facilities. The site is bounded to the east by the Leicester Road, north by the A47, west by grass football pitches and south by the Hinckley Town Cricket club ground. Mature hedgerows mark the northern and southern boundaries. The site is relatively level apart from a gentle slope which falls north to south adjacent to the southern elevation of the eastern single storey building that currently contains the club house.

4. Relevant Planning History

18/00164/FUL

- Erection of a bund and refreshments hut (part retrospective)
- Refused
- 21.11.2018

15/00887/FUL

- Two storey extension to east annex and first floor extension to west annex by south stand to form additional function rooms.
- Planning Permission
- 23.11.2015

14/00042/FUL

- Extension to existing club house to provide additional changing, social facilities and additional parking
- Planning Permission
- 06.03.2014

05/00752/FUL

- Netball Court with fencing and floodlighting
- Planning Permission
- 04.10.2005

02/00863/FUL

- Change of use to football ground and erection of stadia and ancillary buildings including car parking
- Planning Permission
- 01.10.2003

5. Publicity

- 5.1. The application has been publicised by erecting a site notice at the access to the site. There are no neighbouring properties in the vicinity of the site. No representations have been received.

6. Consultation

- 6.1. Sport England – Objection

02.08.2022 (summarised)

The proposed MUGA involves the loss of playing field area and appears to impact on the ability to use the wider playing field.

To aid our assessment Sport England has consulted the Football Foundation who advise:

Whilst there is undoubtedly need for additional full size 3G FTP provision in Hinckley and Bosworth. The 2018 Playing Pitch Strategy indicated the need for five full size 3G FTPs. Both the PPS and Local Football Facilities Plan (LFFP) note the uncertainty around the ownership and access of the Leicester Road AGP site and it has thus been discounted in both.

Ownership issues have since been resolved and the Football Foundation is currently working with Hinckley Rugby Club (HRC) to resurface the existing AGP which was developed in 2006. The PPS notes it is starting to age although the overall quality of the facility remains standard. As part of any investment the FF would require that HRC consult and engage with other clubs in the community and ensure that community use is made available.

Unlocking the potential of the existing full size facility by improving the surface and securing community access would bring a greater benefit the widest range of affiliated game users as well as offering multi-sport opportunities through the inclusion of a shockpad., which would allow full contact rugby.

- In terms of the impact on the playing field, the FF appreciate the Club has sought to minimise the impact. However, FF notes that 4no. pitches have been marked at the site and the development of the MUGA would result in the loss of the capacity for the playing field to accommodate this number of pitches. In this regard the PPS also highlights significant overplay of adult 11v11, youth 11v11, 9v9 and 7v7 pitches so it is important that access is protected. A more detailed drawing would be required to show the impact in relation to pitches currently marked at the site.*
- The FF is concerned that the proposed size of the pitch 36 x 30m would not meet the needs for 7v7 nor 5v5 as the recommended pitch sizes are as follows: U7 and U8 (5v5) 37 x 27m (43 x 33m including safety run-off area) U9 and U10 (7v7) 55 x 37m (61 x 43m including safety run-off area) This therefore limits the facility in terms of potential affiliated use. Whilst there is potential for the facility to cater for training opportunities the FF believe that the size of the facilities will be a limiting factor.*
- It is also important to note that within a 10 minute drive time there are several smaller sized 3G pitches which supplement the stock of full size facilities and provide training opportunities for local clubs, as well as a range of informal five a side opportunities. These include pitches at Battling Brook Primary School and Hinckley Club for Young People.*
- The applicant has also been advised by LRCFA that the FF / FA would not be supportive of this proposal due to the lack of strategic evidence and the proximity to the project being developed at HRC. There will be a need for a community usage agreement with HRC as part of the application to FF in which the Leicester Road Football Club would be engaged and consulted upon and provided with access to at partner rates.*

Sport England's and National Planning Playing field policy is based on a presumption against development – that is, it starts from a position where development on playing field isn't acceptable. Para 99 of the NPPF states that '...including playing field, should not be built on unless: the benefits outweigh the loss and with respect to our policy, there are 5 exceptions to this position, and the proposed AGP falls under exception E5' which states;

'The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.'

Our policy with respect to exception E5 advises;

'There may be occasions when the development of a new or extended indoor or outdoor facility for sport, which is to be fully or partly located on an area of playing field, can be judged to be sufficiently beneficial to the development of sport in the local area as to outweigh the detriment caused by the loss of the area playing field, or the impact on the use of the remaining playing field or pitches. However, such proposals require a careful assessment of the benefits they may secure against any detriment they may cause.'

National planning policies give significant protection to playing fields because they are the single most adaptable and useable resource for sport and whilst artificial surfaces have a role in providing for sport, their design and specification cannot replicate the adaptability of grass with particular surfaces only being suitable for some activities and not others. Moreover properly maintained playing field regenerates its quality naturally during the growing season and should last indefinitely whereas artificial surfaces have to be completely replaced periodically.

The proposal is unclear as reference is made to 3G and 4G. It is assumed therefore that the proposal is for a football specific long pile Artificial Grass Pitch (AGP) facility (with rubber crumb infill). However, this is not clear as the submission advises a 4G synthetic surface (this description does not feature in our guidance). The proposals do not include a specification of the proposed facility. Insufficient information is therefore available to understand if the facility would meet the stated needs.

Paragraph 5.1 advises that the pitch would be capable of hosting 7v7 football practice matches but as advised by the FF the pitch proposed does not meet pitch size guidance. The submission states 'and could also be used for sports including tennis, hockey and basketball.' A long pile AGP is not a suitable surface for tennis, hockey or basketball (training or matches). The references to football in the submission suggest that this would be primarily a football facility.

The Design and access Statement makes several references to the framework but does not assess the proposal against paragraph 99 or Sport England Playing Field Policy. Sport England does not consider therefore that that sufficient justification has been submitted for the loss of playing field area.

In addition, no specification has been provided for the MUGA to fully understand the proposals, no details have been submitted to show how the proposals impacts on existing and future pitch layouts, the proposed pitch size does not meet appropriate guidance.

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF.

25.10.2022 (summarised)

In our initial response we referenced pitches as currently marked out, it is our role to protect the whole of the playing field not just those areas which happen to be marked out at any given time.

It is for the council to apportion weight to an overspill car parking layout required by condition or car parking layout under plan ref no. 02 18 52. It is not clear, save for the access to the highway, which of the car parking layouts has been implemented.

It appears that given the approval of the netball pitch, application ref 05/00752/FUL, there was no intention to implement the car park plan on layout 01 18 52. In addition, it appears from aerial photographs over time that neither parking layout has been fully implemented. Indeed, the overspill car park looks to have been lost.

The applicant's agent advises, in the submission, that the netball court application is 'highly material' (planning permission ref: 05/00752/FUL) as this forms a fallback position having been implemented on site. Clearly netball courts were shown on the 02/00863/FUL approval, but then not shown on the parking layout ref 01 18 52. A separate application was then made for the netball courts under 05/00752. It is not clear why that application was made in 2005, given that netball courts were shown on the 2002 application. No information has been provided to confirm that the 2005 Netball Court approval was implemented, save the access to the highway which was, as far as we understand, required (conditions 8, 9 and 10 of 02/00863) and implemented under the 2002 consent for the wider development.

If your council is, however, content, that the Netball Court approval is the fallback position, then Sport England would accept this opinion. However, based on the aerial photographs and comments above we would seek confirmation of this reasoning (although it appears that the council has accepted this position, para 2.19 DAS). Is this acceptance on the basis that the red line application boundary extends to the highway? The description of development does not include the construction of access to the highway.

The parking provision on site in the location of the proposed MUGA has remained consistent since 2006, the proposal would therefore be constructed partly on an area of car parking as provided and part on the usable playing field area.

In this regard the Football Foundation (FF) advise;

The FF remains concerned that the loss of playing field is not acceptable and reiterate the points set out previously:

In 2011 4no. pitches were marked at the site and the development of the MUGA would result in the loss of the capacity for the playing field to accommodate this number of pitches.

In this regard the Playing Pitch Strategy also highlights significant overplay of adult 11v11, youth 11v11, 9v9 and 7V7 pitches so it is important that access is protected.

The applicant has confirmed both the size of the proposed AGP and that the facility would have a 3G carpet, which is now clear.

In this regard the Football Foundation (FF) advise;

The applicant makes reference to youth academy. The FF is concerned that a 5V5 pitch would be a significantly limiting factor. However, appreciate that it is now the correct dimension for 5v5.

There is an existing AGP at the Leicester Road site. In this regard the Football Foundation (FF) advise;

Unlocking the potential of the existing full-size facility by improving the surface and securing community access would bring a greater benefit the widest range of affiliated game users as well as offering multi-sport opportunities through the inclusion of a shockpad (to improve the facility for Rugby use).

The Football Foundation is currently working with Hinckley Rugby Club (HRC) to resurface the existing AGP which was developed in 2006. The PPS notes it is starting to age although the overall quality of the facility remains standard. As part of any investment the FF would require that HRC consult and engage with other clubs in the community and ensure that community use is made available.

There will be a need for a community usage agreement with HRC as part of the application to FF in which the Leicester Road Football Club would be engaged and consulted upon and provided with access to at partner rates.

Whether the proposals would complement or compete with existing and planned facilities - in our view this matter has not been fully assessed in the submission the applicants have not identified a strategic need for the proposed facility. Given the current position with the potential improvements to the adjacent facility as referenced above. We are not aware of any discussion with the County Football Association or the Football Foundation to establish if the proposal would complement the proposed works to the existing AGP.

In this regard the Football Foundation (FF) advise;

The FF reiterate that the evidence of need should be taken from the PPS which is for full size 3G FTP provision and note several smaller sided facilities in the area.

Consideration also needs to be given to developments in neighbouring authorities to understand the availability of facilities.

Sport England does not consider that the case for the proposal has been established by the additional information submitted. The submission does not adequately deal with the proposal having regard to NPPF and our playing field policy on the basis that the Netball courts can be implemented the validity of which is not clear.

Notwithstanding the potential to implement the netball court consent, the applicants have not in our view sufficiently addressed the strategic need for the facility particularly given the adjacent facility and the potential for wider community use through investment from the Football Foundation.

We agree with the football foundation that, unlocking the potential of the existing full-size facility by improving the surface and securing community access would bring a greater benefit the widest range of affiliated game users as well as offering multi-sport opportunities.

Our policy advises that, there may be occasions when the development of a new or extended indoor or outdoor facility for sport, which is to be fully or partly located on an area of playing field, can be judged to be sufficiently beneficial to the development of sport in the local area as to outweigh the detriment caused by the loss of the area playing field, or the impact on the use of the remaining playing field or pitches. However, such proposals require a careful assessment of the benefits they may secure against any detriment they may cause.'

In our view the additional information does not evidence sufficient benefit to the development of sport in the area to meet the requirements of exception E5.

In light of the above, Sport England maintains an **objection** to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF.

18.04.2023 (summarised)

The additional information mainly concentrates on the planning permission granted under ref: 02/00863/FUL for the change of use to a football ground and erection of a stadia and ancillary buildings including car parking and whether there is a fallback position to build netball courts on the site.

As stated by the applicant's agent, the Pitch Layout Plan submitted under permission ref: 02/00863/FUL shows the application site (under application ref: 22/00224/FUL) as grassed playing field. This plan appears on the Council's website under permission ref: 02/00863/FUL. It is assumed that the plan was submitted after the decision notice for this permission was issued as a requirement of one of the pre-commencement conditions attached to this notice.

In addition to the above, as discussed in Sport England's consultation letter dated 25 October 2022, the netball courts formed part of a later planning application (ref: 05/00752/FUL). This 2005 application was submitted by the same applicant and agent as the 2002 planning application submission (under ref: 02/00863/FUL). Sport England maintains its view that the evidence submitted does not clearly indicate that these netball courts were extant as part of permission ref: 02/00863/FUL as there was a need for a further application to be submitted for their construction. Sport England has already discussed in detail its view that there is insufficient evidence to demonstrate that the 2005 permission is extant (consultation response dated 25 October 2022) and so is of the view that this permission has lapsed.

As included in Sport England's previous response the decision as to whether the netball court approval is a fallback position is one for the Council. However, the Council will be aware that for a fallback position to be given significant weight in the determination of a planning proposal then there must be a realistic prospect of it occurring. Two netball courts have been constructed elsewhere in the vicinity of the site and these are in use by Hinckley Ladies Netball Club. Sport England is unaware of the need for additional netball courts to be built on this part of the site

and so would question whether there is a realistic prospect of these two courts being constructed.

Based on the above, there is ambiguity around planning permission 02/00863/FUL, a lack of evidence to demonstrate that permission ref: 05/00752/FUL is extant and a lack of evidence that there is a realistic prospect of two netball courts being constructed if the Council did conclude that permission was extant.

Part of the application site comprises playing field. The proposal would result in the loss of playing field in an area where there is a deficit. It is not considered that the proposal would accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF which state that playing fields should not be built on. As such Sport England **maintains its objection** to this proposal for the reasons outlined in its previous consultation responses (copies attached).

- 6.2. LCC Highways – No objections subject to conditions.
- 6.3. HBBC Drainage – No objection.
- 6.4. LCC Ecology – No surveys required, no objection.
- 6.5. Barwell Parish Council – No comment.
- 6.6. HBBC Environmental Health – No objection – external lighting and hours of use conditions recommended.

7. Policy

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge
- Policy 19: Green Space and Play Provision

7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM8: Safeguarding Open Space, Sport and Recreational Facilities
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide
- Good Design Guide (2020)

8. Appraisal

Assessment against strategic planning policies

- 8.1 The Leicester Road Football Club site is an allocated open space, sports and recreation facility, reference HIN189 and therefore falls under Policy DM8 of the SADMP. Policy DM8 states that planning permission will not be granted for

proposals that result in the loss of land or buildings in recreational or sporting use except where:

a) A replacement of an equivalent typology is provided, as defined by the most recent Open Space, Sport and Recreational Facilities Study, in an appropriate location serving the local community; or

b) It is demonstrated that there is a surplus of recreational land, facilities or open space of the same typology exceeding the needs of the local community; or

c) The development of a small part of a larger site in recreational use would result in the enhancement of recreational facilities on the remainder of the site, or on a nearby site serving the same community.

8.2 The site is located within the Hinckley, Barwell, Earl Shilton and Burbage Green Wedge. Recreation is a use that is encouraged within the Green Wedge, as dictated under Policy 6 of the Core Strategy, subject to full accordance with the requirements of criteria a-d of the Policy. The policy requires development within the Green Wedge to retain the function of the Green Wedge, retain and create green networks between the countryside and open spaces within urban areas, retain and enhance public access to the Green Wedge, especially for recreation, and retain the visual appearance of the area. The proposals would retain the function of the Green Wedge and would promote recreation and sport within the area, making use of a site located in a sustainable location to deliver recreational benefits to the surrounding area.

8.3 The proposals will be delivering an additional 4G artificial grass pitch on the site designated for open space, sports and recreation, which has a lawful use for F2(c) outdoor sports facilities, thereby contributing towards the future sustainability of a local community sports facility. The SADMP notes in the supporting commentary to Policy DM8 that the benefits arising from the provision of these facilities are clear, providing and facilitating “social cohesion, providing play opportunities, reducing private car dependence, demonstrating the virtues of sustainable development and health awareness, and encouraging employment and inward investment.”

8.4 The Council acknowledges the objections from Sport England relating to the loss of playing field associated with the proposal, and the assertion that the previous relevant planning applications (02/00863/FUL and 05/00752/FUL) have either expired or were not implemented. The Council agrees that there is a degree of ambiguity around whether the previous permissions represent fall-back positions in relation to this proposal.

8.5 It is considered common ground that planning permission 02/00863/FUL has been implemented on-site, and that, after the grant of planning permission, a series of subsequent plans were submitted providing additional details. It is therefore considered that the use of the application site cannot be straightforwardly considered as loss of playing field, as an extant permission exists on the site which would result in a similar loss of playing field land in any case. Officers therefore consider that the proposals would involve the development of a small part of a larger site in recreational use which would result in the enhancement of recreational facilities on the remainder of the site, thus complying with Policy DM8 of the SADMP.

8.6 Whilst the comments received from Sport England are a material consideration, the Council considers that in this instance the harm caused in terms of the identified loss of usable sports pitch area would be outweighed by the provision of a purpose-built all-weather sports pitch facility. There is to be no change of use on the site,

and any such “loss” would be substantially offset by the proposals offering a MUGA pitch of an appropriate size and surface. The pitch will be accessible all year round and will not be affected by inclement weather unlike grass pitches, a key problem identified within the Council’s Playing Pitch Strategy Assessment Report. The Council has also added a condition for a Community Use Agreement as suggested by the Football Foundation, to enable and implement well-managed safe community access to the facility to ensure sufficient benefit to the development of sport in the area. These are public benefits which are given weight in the planning balance, under paragraph 99 of the Framework, when considered against any alleged loss of provision.

- 8.7 Overall, the proposals are considered to be suitable for the site and its location and would contribute towards the aims set out within the Core Strategy in terms of the provision of community facilities and the enhancement of the wider sporting hub. Notwithstanding the objection from Sport England, it is considered that the proposal would result in the enhancement of recreational facilities on the remainder of the site, thus justifying the loss of playing field associated with the development in compliance with SADMP Policy DM8. Therefore, on balance, the proposal is considered to be acceptable in principle, subject to the detailed matters below.

Design and impact upon the character of the area

- 8.8 Policy DM4 allows for sustainable development within the countryside for outdoor sport or recreational facilities which do not have a significant adverse impact on the intrinsic value, beauty, open character, and landscape character of the countryside. Policy DM6 seeks to conserve and enhance features of nature conservation and Policy DM8 seeks to prevent the loss of land in sporting use and /or areas of open space. Policy DM10 requires all development to be in-keeping with the character and design of the local area.
- 8.9 The proposed MUGA will be constructed within the existing sports and recreation facility on land that is partially used as a car park and partly an existing playing field area. Regarding its visual appearance, the applicant has stated that the MUGA would have a 4.5-metre-high mesh fence on all sides, with six 10m high floodlights surrounding the pitch. The design of the MUGA and the materials used are typical of this type of development and its scale would not be out of keeping with the overall site. The MUGA would be viewed within the context of the wider recreational facility and would sit directly adjacent to the existing larger football stadium. It is not considered that the proposed development would have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and it would not undermine the physical and perceived separation and open character between Hinckley and Earl Shilton/Barwell.
- 8.10 Overall, it is considered that the proposed scheme would meet the requirements Policies DM4, DM6, DM8 and DM10 of the adopted SADMP and the general principles of the adopted Good Design Guide.

Impact upon neighbouring residential amenity

- 8.11 Policy DM10 of the adopted SADMP and the adopted Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.
- 8.12 There are no immediate neighbouring residential uses that abut or surround the site, with the closest dwelling separated by more than 120m to northeast of the proposed MUGA.

- 8.13 The details regarding the proposed external floodlighting is to be agreed by condition to ensure that there are no adverse amenity impacts on neighbours. Similarly, a condition has been included to ensure reasonable operational hours.
- 8.14 Overall, subject to conditions the proposed development would accord with policies DM7 and DM10 regarding noise/pollution and residential amenity.

Impact upon highway safety/parking provision

- 8.15 Policy DM17 of the adopted SADMP supports development where there would be no significant adverse impact on highway safety. Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.16 The proposed MUGA would utilise the existing access from Leicester Road. LCC Highways requested further information regarding trip generation and whether the existing parking situation was adequate for the additional visits to the facility relating to the MUGA.
- 8.17 The applicant has suggested through the TRICS database that that the MUGA pitch would be expected to generate an additional 12 two-way vehicle trips during the typical weekday peak hour (8 am to 9 am) and an additional nine two-way vehicle trips during the typical Saturday peak hour (11 am to noon). The Applicant has also considered the level of trips generated if all MUGA players were to travel to the site separately by car. On the basis each team will have two substitutes a maximum of 28 two-way trips would be generated within a 60-minute period. The LHA accept the modal split indicated by the TRICS database that shows a single occupancy rate of less than 40% for five-a-side football and acknowledge that it is very likely players will car share or use methods of sustainable transport. On this basis, the LHA concluded that the impact on the highway network would not be severe.
- 8.18 The proposed access is considered safe and suitable to serve the MUGA and the proposed parking provision is adequate. The proposal is therefore considered to accord with Policies DM17 and DM18 of the adopted SADMP and the general principles of the local highway authority design guidance subject to conditions.

Flood risk and drainage

- 8.19 Policy DM7 of the SADMP seeks to ensure that development does not create or exacerbate flooding. The Council's drainage officer was consulted and has no objections to the proposal. The proposed development is therefore considered to accord with Policy DM7 of the SADMP and would not create or exacerbate flooding and is in a suitable location in respect of flood risk.

Other matters

- 8.20 The proposal does not involve any felling of trees and there is no ecological or biodiversity interest on the existing site, which is a regularly mowed playing field and part of a car park. The proposal is therefore judged to accord with Policy DM6 of the SADMP in this regard.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. Notwithstanding the objection from Sport England, the proposal for the development of a multi-use games area with associated floodlighting and fencing is, on balance, considered acceptable in principle. The development would lead to the enhancement of recreational facilities on the site, ensure the implementation of an all-weather playing facility which will be accessible for the Football Club and the wider community through the implementation of a Community Use Agreement. Furthermore, the pitch will not be affected by inclement weather unlike grass pitches, a key problem identified within the Council's Playing Pitch Strategy Assessment Report. In summary, the loss of the playing field is considered to be justifiable due to the benefits of the development outweighing the harm caused and is therefore in compliance with SADMP Policy DM8 and the NPPF.
- 10.2. Additionally, by virtue of the design, siting and scale of the proposal, the development would not result in any harm to, or have any significant adverse impacts on, the privacy or residential amenities of the occupiers of any neighbouring dwellings and would be appropriate in terms of design and visual impact. The proposal would retain safe and suitable access and acceptable off-street parking and turning facilities and would not lead to any flooding issues or ecological harm. The proposed development is therefore considered to be in general accordance with the principles of Policy 6 of the Core Strategy, Policies DM1, DM4, DM6, DM7, DM8 DM10, DM17 and DM18 of the adopted SADMP, the general principles of the Council's adopted Good Design Guide and the general principles of the local highway authority design guidance and is therefore recommended for approval subject to conditions.

11. Recommendation

- 11.1 **Grant planning permission** subject to:
 - Planning conditions outlined at the end of this report

11.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

11.3 **Conditions and Reasons**

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Nigel Dutton. Drawing Number. ND21.16501 Rev.B.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety in accordance with Policy DM18 of the SADMP.

3. The materials to be used on the proposed development shall accord with the information submitted within the application documentation. The fencing and floodlights should be dark green in colour with white goal areas.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No external lighting of the site shall be installed until details have been submitted in writing to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The facility shall not be used outside of the following hours:

0900 – 2100 Monday to Friday
1000 – 2000 Saturday and Sunday and Bank Holidays

Reason: To protect the amenities of the occupiers of nearby residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development plan DPD (2016).

6. The use of the development shall not commence until a community use agreement prepared in consultation with Sport England and the Football Foundation has been submitted in writing 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 multi-use games area and shall include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sport facility to ensure sufficient benefit to the development of sport in accordance with Policy DM8 of the SADMP.

11.4 **Notes to applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.