

Sports Clubs & Club Development

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Introduction

To many sports clubs, the planning system represents one of the hurdles, which they need to overcome when seeking to develop, redevelop or finding alternative accommodation for their club site. To other sports clubs the planning system represents a procedural mechanism available to them to challenge redevelopment proposals of their grounds and facilities where there may only be a tenant. In some cases these can command a high media profile as the continuing saga of the relocation of Brighton and Hove Albion demonstrates.

Previous editions of the Planning Bulletin series have investigated: intensive use of sports facilities; sport in the Green Belt and; sport stadia.

This edition of the Planning Bulletin seeks to bring together many of the issues raised in the above editions in a club-focused edition, and focuses on:

- Tenure;
- Relocation;
- Designations;
- Intensification;
- Multi Sport Clubs; and
- Design.

Tenure

Over the years there have been numerous issues surrounding clubs and tenure, almost all of them in relation to the loss of sports facilities. This is because many sports clubs are located in areas of high land value, which make them very susceptible for redevelopment for housing, retail and business locations. In many cases, developers approach clubs with ideas over relocating the club to another site, however in cases where the club does not own the site, clubs are vulnerable to landlords seeking to maximise the value of their asset seeking to remove the club through rent reviews, end of tenancy agreements etc.

Case Study 01 York City Football Club

In 1999 ownership of the club's Bootham Crescent ground, the club's home since 1932, was transferred from the football club to a new holding company, with the club effectively becoming mere tenants at the ground.

The Bootham Crescent ground was seen as valuable asset, situated within a City of booming property prices. Unsurprisingly, the supporters became immediately alarmed, and even more so on learning that a national housebuilder had acquired a 10% stake in the holding company with rumours of secret deals which would mean the ousting of the football club.

The threatened loss of the Bootham Crescent facilities also threatened the club's existence in the football league and its community vision. The club then lost its security of tenure of the ground and a planning application was submitted in July 2002 to redevelop Bootham Crescent with 93 houses. At the same time, the club had accumulated debts of around £1 million and was plunged into administration with the prospect of liquidation.

The club was on the brink of extinction, with players and staff facing unemployment and the supporters and the community facing the loss of their club, the only football league club in North Yorkshire.

In January 2002 the York City Supporters Society Limited (known as 'the Trust') was formed. With the aid of a local newspaper campaign, the Trust generated an enormous amount of support, publicity, fundraising and positive action for the benefit of the football club. The Trust elected board members who volunteered time and effort to lead the work, with their main objective to ensure the continuation of professional football in York. They also sought to develop the business side of the club whilst seeking to secure the club's presence at Bootham Crescent, and looking for an alternative site, which would secure the long-term future of the club.

The formation of the Trust has given the supporters a powerful voice to influence the future of the football club. It is also hoped that a club can be built through the Trust which embraces its relationship with supporters, schools, businesses and the community.

The latest position on Bootham Crescent (June 2006) is that the original planning application remains lodged, but is on hold. The application will only be pursued in conjunction with an application for a new stadium facility. The site selection process is still underway with possible candidate site subject to feasibility studies. One of the issues for the Trust to decide is whether to include multi functional and non-sporting community facilities within the proposed new stadium in pursuit of its wider objective for the City of York.

The York City example demonstrates a trend of separating clubs from their assets, with other clubs both inside and outside football having experienced similar tenure difficulties.

There are a number of options available to clubs to help secure their assets. Options available to clubs to protect land and facilities include vesting the freehold of a site to the NPFA. This is thought of as one of the most secure ways of protecting land.



Local managers are then appointed to manage and maintain the facilities whilst the NPFA acts solely as the custodian or holding trustee. Guidance on long-term recreational land protection was developed by the NPFA as part of the New Opportunities Playing Fields and Community Green Spaces Programme, delivered by Sport England. It notes that several stakeholders and processes serve to safeguard playing fields or recreational land. The approach is based on the need for quality provision maintained to the highest possible condition. Recreational land has the best chance of being used and valued by owners, users, grant providers and the public if it is of the highest quality.

A second option is for the land to be held by local charitable trustees. Clubs have a number of sources of grant funding available through Sport England, with the level of funding determined by match funding. A condition of private funding may mean that the funding is lost if local control is relinquished, for example to the NPFA.

A further consideration for clubs to be aware of under tenure is what happens if their sporting facility is simply demolished. A court case involving the demolition of facilities at the Thames Ditton Lawn Tennis Club in Surrey highlighted this potential issue. →

→ **Case Study 02**
Thames Ditton Lawn Tennis Club

The club's premises consisted of hard and grass tennis courts, pavilion, storeroom, garage and unsurfaced car park. The club's lease was due to expire in 1995 and the club applied for a new tenancy, which was opposed by the landlord, who expressed an intention to demolish the premises on the termination of tenancy.

The landlord submitted a planning application for residential development and appealed against its non-determination by Elmbridge Borough Council.

The appeal was subsequently refused by the Secretary of State on the grounds that recreational space would be lost without equivalent replacement.

The landowner then announced their intention to demolish the premises and the court placed considerable weight on the argument that planning permission would not be required to demolish the premises and there was nothing to prevent them going ahead with the demolition.

The County Court agreed with this view, however the club took the case to the Court of Appeal and successfully overturned the decision.

This judgment confirmed that planning permission was required for the breaking up and digging up of the tennis court as this was deemed 'engineering operations' and therefore 'development' under the Town and Country Planning Act 1990.

It also confirmed that the situation was different for the demolition of 'buildings' and the landowners had a valid point as far as the demolition of the pavilion and storeroom was concerned. Under the definition of development and the Demolition Direction 1995 which describes buildings whose demolition is not development, outside conservation areas planning control applies to the demolition of dwelling houses and any buildings adjoining them. Planning permission is not required for the demolition of, amongst others, sports buildings.

The planning system has also much to offer in the protection of clubs: Planning Policy Guidance Note 17, the designation of playing fields in development plan and local development frameworks, and the role of Sport England as a statutory consultee on planning applications affecting playing fields.

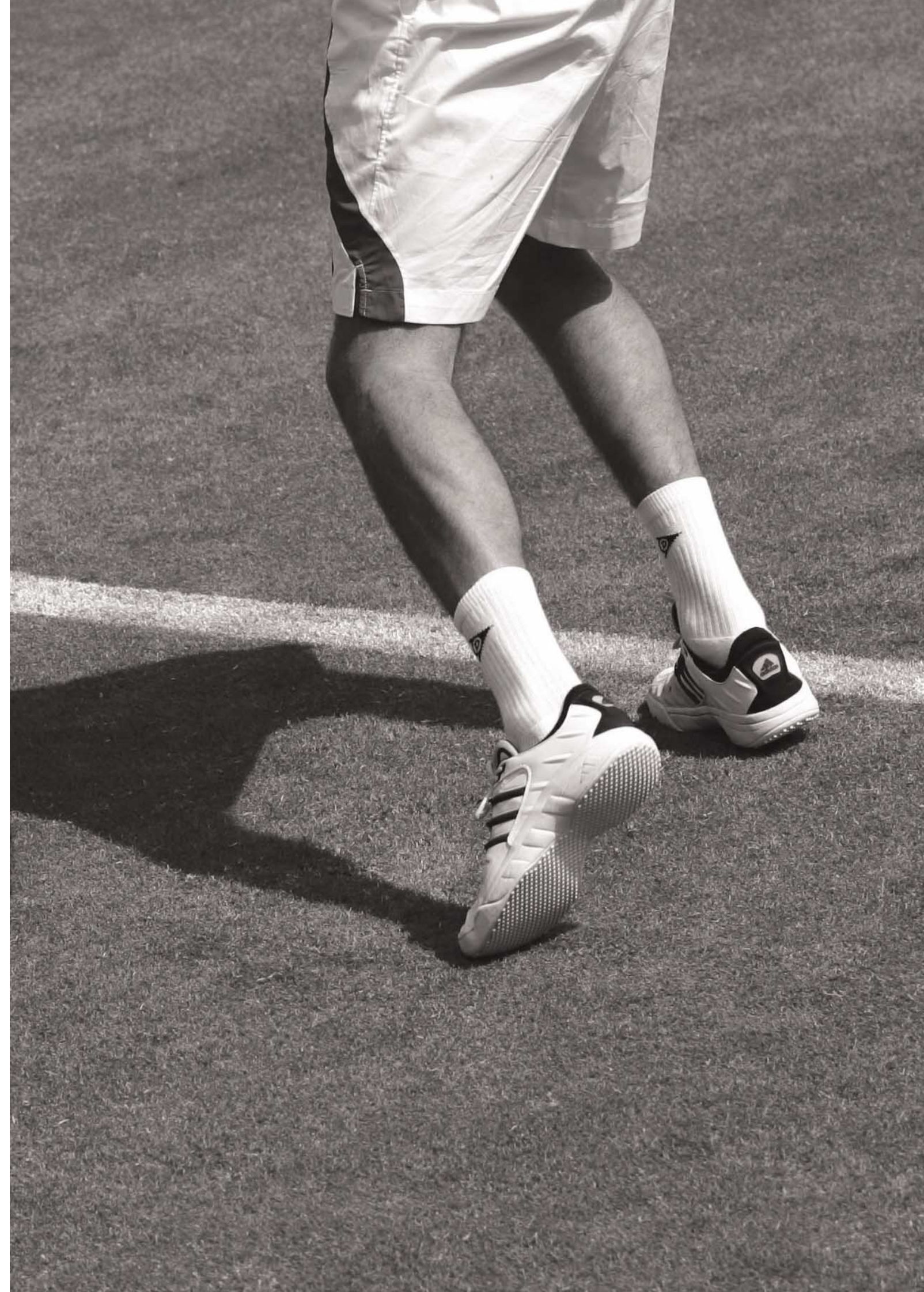
Other regulatory processes, such as the requirement to secure the consent of the Secretary of State for Education and Skills for the disposal of school playing fields (see Planning Bulletin 16, School Sites and Community Sports Provision) can also influence the decision making process.

It is not just demand from the private sector, which can undermine clubs. The continual demands of the treasury for public bodies to maximise their assets also causes problems.

A final case example on vulnerability of clubs who do not own their own facility is the case of Rissington Kart Club. The club have held national and international kart racing meetings at a circuit maintained at Rissington Airfield in Gloucestershire. The site is a disused military airfield owned by Defence Estates. The use of the land by the Kart Club has been on going for over 50 years under Crown Immunity.

However, this year the club were told that the land would only be available for motorsport use in the future on the consideration that the number of meeting days would not exceed those set out in the Town and Country Planning (General Permitted Development) Order 1995, to comply, the Kart Club would have to forego some four meetings a year.

Given their non-profit making status and the revenue generated by each event, the club expect a severe impact on cashflow and their ability to comply with various legislative requirements. Other motor racing clubs may be faced with the same issues, which could have a negative impact on the sport as a whole.



Relocation

Relocation is an issue facing many sports clubs. Some may choose to do so in order to improve or expand facilities, or remove a conflict with neighbouring land users, others, such as York City Football Club may be forced to do so by circumstances outside their control, as discussed earlier.

Relocation or exchange of open space, sports or recreational facilities is addressed in paragraph 13 of PPG 17, which states that the new land and facility should be at least as accessible to current and potential new users, and at least equivalent in terms of size, usefulness, attractiveness and quality.

The aim should be to achieve qualitative improvements to open space, sports and recreational facilities. Local Planning Authorities (LPAs) should use planning obligations or conditions to secure the exchanged land and ensure necessary enabling works are undertaken and the replacement facilities are capable of being maintained adequately through management and maintenance agreements.

Guidance contained in paragraph 15 of PPG 17 states that LPAs should give very careful consideration to planning applications involving development on playing fields. It advises that planning permission should not be allowed unless one of the four criteria can be complied with. Criterion (iii) is that the playing field to be lost as a result of the proposed development would be replaced by a playing field or fields of equivalent or better quantity and quality and in a suitable location, a reiteration of Sport England policy on playing fields

In circumstances where a replacement off-site facility is relied upon to justify development of open space, sports or recreational facility, full details of that replacement facility must be provided.

Case Study 03 Boston United Football Club

A development company went to appeal in February 2005 over a proposal to develop Boston United Football Club's stadium for houses.

The site was designated in the Local Plan as recreational open space and this was supported by policies within the Plan echoed those in set out in PPG 17. It was common ground between the parties that the development proposed would be inconsistent with these policies unless an acceptable equivalent replacement was provided. In this case, no replacement facility was before the Inspector, although possible sites had been identified.

The appellants considered that a negatively worded condition would be sufficient to secure the continued provision of the sports facility. A draft condition was suggested. However, the Inspector considered that there was no certainty that a replacement ground would be provided.

He noted advice in Circular 11/95 (The Use of Conditions in Planning Permissions) which set out six tests planning conditions should meet, including the tests of precision and enforceability. Planning conditions must be sufficiently precise for a prospective developer to know what must be done to ascertain whether or not he has complied with them.

The Inspector held that a judgment would be required on whether a future replacement facility was equivalent or better. Such a judgment would be a complex and subjective matter involving a wide range of issues including the nature, accessibility, quality and scale of activities to be provided.



There would be considerable scope for differences of opinion on whether the condition had been complied with. Such a condition would therefore fail the test of precision in Circular 11/95. Consequently, the Inspector concluded that the development would be likely to lead to the loss of facilities contrary to policies, which seek to protect them. The appeal was dismissed.

Had this appeal been allowed with a generic and negatively worded condition, it could have encouraged speculative planning applications to redevelop playing fields and sports facilities. Applicants would have a realistic prospect of circumventing the requirements of PPG 17 during the assessment of their applications.

What the Boston United case highlights is the need for development proposals incorporating replacement facilities to be comprehensively thought through and a degree of certainty for delivering alternative equivalent or better provision must be achieved.



Designations

Planning Bulletin 13 explored the issue of Sport in the Green Belt and looked in depth at recent decisions of the Secretary of State where sport facilities were proposed in the Green Belt. The football academies of Derby County and Chelsea Football Clubs were case examples where very special circumstances were required to justify inappropriate development.

To summarise, unless a proposal for a sports building can be demonstrated as being both essential and for outdoor sport, it will generally be considered inappropriate development in the Green Belt. Very special circumstances are required to justify inappropriate development. Examples of essential facilities given in Planning Policy Guidance Note 2 Green Belts are small changing rooms or unobtrusive spectator accommodation or small stables for outdoor sport and recreation.

Defining what is 'small' and 'essential' in this context is a matter of considerable debate. Reference is frequently made to appropriate standards set out in Sport England guidance such as the Pavilions and Clubhouses Guidance Notes.

As schemes that seek funding from the Sport England Lottery Fund must accord with such guidance, it would seem reasonable for LPAs and Planning Inspectors to give these documents a good deal of weight. Planning Policy Statement (PPS) 7 Sustainable Development in Rural Areas advises that in Areas of Outstanding Natural Beauty the conservation of the natural beauty of the landscape and the countryside should be given great weight in planning decisions.

Case Study 04 Bromborough Golf Course

Bromborough Golf Club is located within the Green Belt on the Wirral. The development proposed included the erection of a ground floor extension to the clubhouse and also the addition of a first floor to part of the existing building adjacent to the car park. The extension

would accommodate a relocated score card room and committee room, with the space vacated by these rooms being converted into a staff rest room, store and toilet facilities.

At the appeal the LPA argued that there was already a large range of facilities available in the golf club house, more than those deemed necessary by Sport England. The proposed extension, it was argued, would not provide essential facilities to enable golf to be played at the club. Further, the LPA claimed that the development proposed was to enlarge a building, which was already beyond the maximum size recommended by Sport England.

The Inspector considered that not only was it expected that a game of golf should be supported by the provision of essential changing facilities, it was also reasonable to expect sufficient facilities for a degree of social recreation. Some days would involve competitions, annual meetings or prize awards when significant numbers of people could be expected and these would require additional facilities such as toilet facilities for general use, separate and distinct from the changing room facilities.

The Inspector formed the conclusion, having one eye on a possible legal challenge, that even if his acceptance of the proposal as appropriate development was flawed, very special circumstances justified the development: the development would not be visually intrusive; there would not be an unacceptable encroachment into the green belt and; there was no adverse impact on openness. The appeal was allowed and planning permission granted.

The Bromborough case demonstrates the constraints on development and the level of justification required – even for modest expansion of club facilities when located within the Green Belt. It is also an example of a wide meaning given by an Inspector to the term essential facility for outdoor sport, albeit a nervous one!



Intensification

Sports clubs may at some stage consider increasing the use of their facilities. Floodlighting of courts by a tennis club for example, not only gives the club increased flexibility by allowing evening use but also represents a way of better utilising an existing facility without the need to construct additional courts. In terms of pitch-based sports, synthetic surfaces have a greater carrying capacity than a normal grass pitch and are therefore an attractive proposition to increase usage throughout the week, particularly with regard to training. Intensive use of sports facilities was considered by Planning Bulletin 3 and revisited in Planning Bulletin 14 and we reported then that apart from one paragraph in PPG 17 there is very little national guidance on floodlighting.

Over the last few years there have been significant advances in the technology of synthetic pitches and floodlighting to allow more intensive use of sports facilities.

In intensifying use at facilities, sports clubs will need to be aware of issues concerning:

- the potential noise and disturbance to nearby adjacent residential occupiers. This can be generated from players and spectators during training and matches and by users arriving and leaving the facility;
- light pollution and spillage, particularly as it affects adjacent dwellings;
- water run off from hard surfaces;
- impact on the physical appearance of the site, particularly where a grass pitch is replaced by synthetic turf.

The decision maker will have to balance the negative aspects with the benefits wider use of a sporting facility to the club and the wider community.

Multi-Use Facilities

One of the 'Priorities for Action' under Sport England's Framework for Sport in England document is to create new types of family-orientated multi-sport 'hubs', where fitness and sport facilities are combined to include support and other social facilities.

There are significant benefits for sports clubs to form partnerships with others. Where possible, different sports can be brought together on one site such as tennis, bowls and football, which may in the past, have had separate pavilions on the same recreation ground. Not only can facilities be used more effectively and enjoy shared running costs, but the sharing of facilities opens up the potential for shared coaching and sports development programmes, allowing people to more easily try other sports that in the past they may not have thought about.

In Planning Bulletin 16 School Sites and Community Sports Provision we discussed how school sport facilities could be used by the community during the evenings and weekends under the 'Extended School' concept. This means that the school provides a range of services and activities beyond the school day to help the needs of its pupils, their families and the wider communities.

Sports clubs also have a vital role to play in their communities. Football clubs for example can bring a town and even a region together. Many clubs have communities and education schemes, some of which are funded through the Football Foundation, in partnership with local education authorities. These include anti-racism, healthy lifestyles, crime reduction and drug awareness schemes can be delivered using the power and prestige of clubs. Learning in an environment where their heroes play each week also has a motivational effect on participants.

March 2006 saw the opening of Salford Sports Village, a state of the art facility offering sporting as well as training opportunities for everyone. It was funded to the tune of £4.7m through Sport England / Big Lottery, the Football Foundation, FIFA, Salford City Council, The FA, New Deal for Communities, the European Regional Development Fund and the Neighbourhood Renewal Fund. It is managed under agreement by Salford Community Leisure Limited and the facility is also the new home of the Manchester FA.

The key aim of Salford Community Leisure Limited under their management agreement is that local people can use the facilities at affordable prices. The facility has several grass pitches, two 3rd Generation Synthetic Pitches, grass practice areas and floodlights. The associated building also contains changing rooms, community room, bar, conference and meeting rooms, an ICT suite with courses organised through Eccles College.

At the opposite end of the scale are the numerous local clubs whose facilities may stand unused for six days a week. Clubhouses could be used during the week by a crèche or an artist studio, which would reduce the running costs and help improve security in traditionally vulnerable locations. The South Weald case demonstrates where a club have attempted to do this.



Case Study 05 South Weald Cricket Club

South Weald Cricket Club in Essex sought to provide a day nursery within its existing pavilion. The site was in the Green Belt, in a rural area about a kilometre away from the edge of Brentwood, Essex.

Unfortunately for the nursery and cricket club, it was held that all journeys were likely to be made by private car. The access lane to the site lacked both a footway and lighting. The Inspector considered that if the proposed development was located in an urban area the nursery would have a choice of travel modes, including walking.

The Inspector concluded the location was not acceptable having regard to local and national planning policies seeking sustainable development and reducing the reliance on private transport. The development would materially increase the use of a Protected Lane, which would detract from the character and appearance of the lane. The increase in traffic would also lead to an unacceptable increase in highway safety.

In dismissing the appeal the Inspector added the issue of inappropriate development in the Green Belt. Up to 20 cars would be parked at the site, up to twice a day, which would appear intrusive especially during the winter months. Although there would be parking associated with the cricket club, this was an ancillary activity for outdoor sport. The need to fund raise to improve facilities and the role of the cricket club was acknowledged by the Inspector, but did not outweigh the adverse effects identified from the proposal.



Design

Sport England's publication (in conjunction with CABI) Better Places for Sport seeks to assist those involved in sports projects to deliver the best outcome for sport, projects, future uses and wider social goals. It contains a step by step guide and check list for each stage of the project, applicable to new buildings, extensions, renovation or open spaces.

The four project stages:

- Preparation
- Design
- Construction
- Use

Obtaining planning permission will be one of the first in a list of approvals required during the project stage and should preferably be sought at the design stage. In Planning Bulletin 16 we emphasised the need (in that case for schools) to engage advice from the different stakeholders early in the project. These include:

- users;
- neighbours;
- volunteers;
- local and national sport governing bodies;
- schools;
- coaches;
- Sport England;
- youth leaders;
- designers and constructors of similar projects;
- the local authority;
- an architect.

The advice of each stakeholder will feed into forming the outline brief for the project at the preparation stage. During the design stage it is important to review the design at key parts of the process.

Considerations will include the accessibility of the design, sustainability and energy efficiency and spatial efficiency, including circulation.

There will not be a 'one size fits all' solution or a right design. However, careful checking at all stages will help achieve high design quality. Clubs will need to meet their accommodation requirements in a sustainable and accessible building not forgetting the quality of internal space.

Information

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Further Reading

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Planning Bulletin 13 Sport in
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London, Sport England 2003

Sport England

Planning Bulletin 14 Intensive
Use Facilities Revisited
London, Sport England 2004

Sport England

Planning Bulletin 16 School Sites
and Community Sports Provision
London, Sport England 2005

*Copies of the Planning Bulletins
may be downloaded from the Sport
England website.*

Websites

Sport England
www.sportengland.org/spatialplanning

York City Supporters' Trust
www.ycst.org.uk

National Playing Fields Association
www.npfa.org

The Football Association
www.thefa.com

Salford City Council
www.salford.gov.uk

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