

REPORT SUMMARY

REFERENCE NUMBER: 24/503628/FULL		
APPLICATION PROPOSAL: Section 73 - Application for amendment of condition 10 (Noise and Lighting Plan) pursuant to 22/503920/FULL for Creation of 3G artificial grass pitch (AGP) with perimeter fencing, new macadam hard standing area, 15 metre high floodlight columns, soil bundling, goal storage areas and team shelters to remove any restriction on whistling on the sports pitch (removal of the need for a 'no whistle' policy).		
ADDRESS: Cornwallis Academy, (Cornwallis School) Hubbards Lane, Boughton Monchelsea, ME17 4HX		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • Need for a new artificial grass pitch in the borough was identified separately in two different assessments, with a particular gap in provision found in the south of the borough. • The physical and mental health benefits of increased participation in sport are evident in the general support for sports provision set out in the NPPF. • The 'no whistle policy' fails legal tests for planning conditions in terms of being 'necessary', 'reasonable', 'enforceable', and 'precise'. • With the benefit of evidence from actual 'real life' survey information, revised acoustic consultant advice is that the 'no whistle policy' (that applied only to community use of the artificial grass pitch) is no longer required. 		
REASON FOR REFERRAL TO COMMITTEE: Recommendation contrary to the views of the environmental health officer.		
WARD: Loose	PARISH COUNCIL: Loose	APPLICANT: Cornwallis Academy AGENT: Surfacing Standards Limited
CASE OFFICER: Tony Ryan	VALIDATION DATE: 13/09/2024	DECISION DUE DATE: 19/01/2025
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- a) A noise impact assessment was submitted by Cornwallis Academy with the original planning application (22/503920/FULL). The noise impact assessment used comparable existing sports pitch locations and desktop modelling to assess potential noise impact on neighbours.
- b) The noise impact assessment found the greatest potential noise impact on neighbours was from use of the referee's whistle in the evenings. In response the noise impact assessment (Section 9.4: page 33) recommended a 'no whistle policy'.
- c) As community use would typically take place during more sensitive evening periods (in addition to weekends and outside term time), the noise impact assessment recommended that the 'no whistle policy' would only apply to the community use of

the artificial sports pitch. It is understood that the 'no whistle policy' recommended by the Academy was an alternative to providing greater physical noise mitigation.

- d) The separate 'noise management plan' submitted by the Academy with 22/503920/FULL did not include this 'no whistle policy', and in response planning officers recommended a planning condition (condition 10). The condition required submission and approval of a noise and lighting management plan with details of the 'no whistle policy' "*...prior to the first use of the...*" new artificial grass sports pitch.
- e) The planning committee in December 2022 resolved to grant conditional permission and this decision was issued on the 31 January 2023.

Application 23/503026/SUB to approve details for conditions 6, 7, 10, 14, 17 and 18 attached to 22/503920/FULL.

- f) On the 30 June 2023 the applicant submitted the revised 'Noise Management Plan' with the 'no whistle policy' (and details on conditions 6, 7, 14, 17 and 18)
- g) The 'no whistle policy' was put forward by the Academy as part of the measures to reduce neighbour impact however council officers and the applicant were unable to find a way to make the 'no whistle policy' work (condition 10). These issues included the legal enforceability test for planning conditions, and the presence of other neighbouring unrestricted and unaffected natural turf sports pitches.
- h) The applicant was also unable to resolve issues raised by Sport England to the applicant's 'Community Use Agreement' (condition 14).
- i) A split decision was issued in July 2024 with conditions 10 and 14 refused as the information did not meet the requirements of the condition and Sport England requirements. Details submitted on conditions 6, 7, 11 and 18 were approved.

Breach of pre commencement planning conditions

- j) Whilst in breach of the precommencement conditions agreed by the planning committee, the artificial sports pitch was completed and was in use by the Academy and community until August 2024.
- k) Potential planning enforcement action (24/500288/BOC) in respect of the applicant's use of the pitch in breach of conditions 10 and 14 was put on hold whilst 23/503026/SUB was being considered. After the decision on 23/503026/SUB and against the backdrop of regular and repeated complaints from neighbouring residents, the Academy were asked to stop using the artificial grass sports pitch (August 2024) until issues relating to noise mitigation were resolved.
- l) The community use agreement was subsequently approved under application 24/504215/SUB (Condition 14).

Current application 24/503628/FULL for removal of the 'no whistle policy'.

- m) The applicant was advised to submit the current planning application to vary condition 10 (22/503920/FULL) to remove the requirement for a 'no whistle policy'.
- n) The 'no whistle policy' was originally put forward by the applicant as an part of noise mitigation measures. The current s73 application was submitted without additional physical noise mitigation or any justification for the removal of the 'no whistle policy'. The applicant was requested (October 2024) to carry out a 'real life' noise survey of the artificial grass sports pitch, this contrasted with the desktop assessment originally submitted.

- o) The results of this survey (received 12 December 2024) found that with the approved acoustic barrier in place, the noise generated by the sports pitch was acceptable in relation to neighbour amenity.

Aerial image of application site location (image prior to completion of the pitch)



MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 In policy terms the application site is in the countryside but close to four settlements of Boughton Monchelsea, Coxheath, Maidstone Urban area and Linton Village.
- 1.02 Whilst located in the countryside, residential housing is located to the west of the playing fields in cul de sacs off Linton Road (Hansen Drive and Holmesdale Close).
- 1.03 Housing with a suburban layout is located to the north along Salt's Ave with housing bordering part of the boundary to the east along Hubbards Lane. There is a vegetated buffer zone to the east, west and north boundaries of the playing fields.
- 1.04 The proposed facility is 50 metres from the rear elevation of the closest residential building, which is Amies House. Amies House is a two-storey block of 6, one bedroom flats in Holmesdale Close to the west of the application site. In the circa 50 metres separation distance, there is circa 15 metres separating Amies House from the Cornwallis Academy boundary and a circa 22 metre deep vegetated area that includes several trees.
- 1.05 The rear elevation of terraced and detached properties in Hanson Drive to the west, face towards the shared boundary with Cornwallis Academy. At the closest point circa 58 metres separates these properties from the closest part of the artificial grass pitch. Within these 58 metres, there is circa 11 metres between the nearest property and the Cornwallis Academy boundary, and a circa 16 metre deep vegetated area that includes several trees.
- 1.06 Detached and semi-detached houses in Salt's Avenue are located to the north of Cornwallis Academy. At the closest point circa 124 metres separates these properties from the closest part of the new facility. Within these 124 metres, there is a vegetated area of circa 37 metres along most of the boundary to the north of the proposed facility and the Cornwallis Academy boundary, that includes several trees.

- 1.07 Detached houses in Hubbard's Lane border the northern section of the eastern site boundary. The closest property in Hubbard's Lane is circa 175 metres from the new facility with intervening landscape screening and two existing and retained natural turf pitches. Academy buildings, car parking areas and site access are located on the southern part of the site.

2. PROPOSAL

- 2.1 The current s73 application involves assessing the acceptability of the artificial grass pitch again in the absence of the 'no whistle policy' that was a condition of the original planning permission.

3. POLICY AND OTHER CONSIDERATIONS

- 3.1 Maidstone Borough Local Plan Review (2024) policies:
LPRSS1: Maidstone borough spatial strategy
LPRSPR6: Rural service centres
LPRSPR6(A): Coxheath
LPRSP9: Development in the countryside
LPRSP12: Sustainable transport
LPRSP14: The environment
LPRSP14A: Natural environment
LPRSP14(B): Historic environment (Archaeology)
LPRSP14(C): Climate change
LPRSP15: Design
LPRTRA2: Assessing the transport impacts of development.
PRTRA4: Parking
LPRINF1: Publicly accessible open space and recreation
LPRINF2: Community facilities
LPRQD 1 Sustainable design
LPRQD 2: External lighting
LPRQD 4 Design principles in the countryside
- 3.2 Loose Neighbourhood Plan (2019) policies:
LP1 Views across village & countryside
LP3 Design of development in the countryside
LP4 Natural environment in Loose
DQ1 Design quality.
- 3.3 Other local documents
Landscape Character Assessment (2013) and Supplement (2012)
Landscape Capacity Study: Sensitivity Assessment (2015)
Kent and Medway Structure Plan 2006 Supplementary Planning Guidance (SPG4):
Vehicle Parking Standards
- 3.4 National policy
National Planning Policy Framework (NPPF) (revised 2024)
National Planning Practice Guidance (NPPG)
- 3.5 Sport related documents
Sport England's Planning for Sport Guidance (June 2019)
MBC Playing Pitch Strategy November 2020 (evidence for Local Plan Review).
Football Association Maidstone 'Local Football Facilities Plan'
Sport England Artificial Grass Pitch (AGP) Acoustics - Planning Implications

4. LOCAL REPRESENTATIONS

Local residents

4.01 19 representations have been received objecting to the application for the following summarised reasons:

Noise

- Intolerable nuisance to neighbours (with no whistle policy in place) from loud shouting (including coaches), screaming, swearing, cheering, kicking of balls, whistles and fences rattling for long hours, 7 days a week during the season and several times a week throughout the year.
- Hours of disturbance from early morning to late night including Sat and Sun prevents peaceful enjoyment of gardens.
- Residents unable to keep windows open and noise heard in every room with windows closed.
- Noise from children's play very different to louder adults and pitch should only be used in school hours.
- Adult groups using the pitch, and supporting adults, shout, roar, and swear.
- Mitigation, including the acoustic fence, mound and trees is useless with noise bouncing off the school walls.
- Even residents next to a football ground do not suffer 7 days a week.
- Noise levels have been more than those in the original assessment and no new impact assessment on neighbouring residents or wildlife has been put forward to support the change. (*Officer comment: results of a noise survey were submitted by the Academy on the 12 December 2024 and are available on the Council's website*).
- Appears that Academy have made no attempt to find alternatives e.g. use of hand signals by futsal referees.
- Study of an urban setting with moderate background noise found that whistles could be heard up to 400 metres (0.25 miles).
- Disagreement between Environmental Health and the applicant's consultant on acceptable levels of noise.
- MBC has a duty of care towards the environment and residents in terms of nuisance.
- Sports use has moved to grass pitches (as MBC are currently preventing the use of the artificial pitch) and this has caused even greater disturbance to residents.

No whistle policy

- The current 'no whistle policy' has been ignored by the Academy.
- 'No whistle' policy plays an important role in minimising disturbance in a residential area.
- Whistles should continue to be banned after normal school hours i.e. evenings and weekends as use could create a significant nuisance for nearby residents.
- Whistles will be a persistent noise from early in the morning until late in the evening, including weekends increasing disturbance and nuisance to families.
- Use of whistles would have resulted in a likely refusal of the application.

Health

- Sleep deprivation for children living nearby with excited shouting, whooping and whistle blowing since the 3G pitch was opened.
- Impact on people's mental health must be taken into consideration.
- Noise impact is not everyday school noise but real, significant and life changing and has led to stress, and physical and mental health issues.
- Peaceful downtime while in our own home is a basic right.
- Very easy for people living nowhere near the school to support but neighbour come home after work and live with the noise nuisance.

Floodlights

(Officer comment: current application is restricted to considering whether referees whistles should be allowed outside the normal Academy day)

- Light from the floodlights is excessive, spoils views and is light pollution.
- Feels like we live in the Gallagher Stadium at night.

Resident and Academy neighbour relations.

- One of the main concerns is the poor approach of the Academy to complaints and lack of accountability.
- Many residents have video recordings of whistles being used regularly despite not being allowed.
- Information in the application on the distance separating the pitch from neighbouring properties is incorrect and the advice that residents would not notice any difference is also incorrect.
- The Academy noise officer and the MBC environmental protection team response to over 100 complaints has been inadequate.
- Academy plays down the impact on the surrounding residents living on all 4 sides of the site, with concerns dismissed as an inconvenience.
- Lack of on-site presence outside school hours.

Non education uses.

(Officer comment: current application is restricted to considering whether referees whistles should be allowed)

- The purpose of a school is to teach and care for children. If they would like to change it into a business, they should apply for a change of use.
- Cornwallis Academy is a school and not a sports centre.
- Commercial ventures are ever growing and application for an alcohol and entertainment license up until 11 pm every weekend throughout the year is concerning.
- Fully support the school's sports programme but object to the continuous, and new, commercial use of the pitch at unsociable hours including evenings, weekends, and holidays.
- Wide ranging Academy money making schemes (including liquor licence application up to 11pm) are to the detriment of the neighbours.

Others

- Location is totally unsuitable for the artificial sports pitch.
- Consultation letter incorrectly refers to Cornwallis School rather than 'Academy'.
- Original decision is questioned due to postal delay to residents committee invitation letters.
- Potential buyers of a nearby property have withdrawn their interest due to the nuisance.

4.02 49 representations have been received in support of the application for the following summarised grounds:

Benefits of the facility

- The happiness and joy of 1000s of kids should not be prevented due to whistle noise and floodlights.
- Lack of good local 3G pitches.
- The 3G pitch is invaluable for grassroots football teams, especially during the winter due to waterlogged pitches.
- Having invested in quality facilities for children and the community, the school should be able to freely make use of them and optimise their benefit for society, seven days a week, 7am - 11:30pm (i.e. in line with Highway Code for use of vehicle horns on restricted roads).
- Benefits include increased access to sports, support for local sports clubs and

teams, and economic and social benefits. valuable lessons such as being part of a team, rules, friendships.

- Facility keeps children and young people safe, healthy, and actively involved in sport with key mental and physical health benefits, tackling obesity and preventing anti-social behaviour.
- Opportunity to enhance local sports infrastructure and create a positive impact on our community.
- Society should be encouraging these facilities and not treating as a hazardous neighbour.
- Full use of the 3G pitch provides significant investment in the health, well-being and social fabric of the community.
- Good sense to have such a facility at a school which can also be used by local clubs.
- Support use by the school and as a venue used by the local community for various activities.
- Coaches hugely respectful towards behaviour and noise at the pitch and us parents are careful to fully adhere to tight rules and regulations.
- Devastating to a huge number of children/families if this facility continues to be unavailable.
- Completely understand certain reasonings for objections relayed, but from a schooling perspective Cornwallis is developing not only children academically but also in a sporting arena.
- Moved in after the school use so were prepared for the resulting noise.
- Pitch not only benefits the students but the whole community with these exceptional facilities.
- Encouraging fitness and teamwork on a good-quality surface is a win for everyone.

Importance of a whistle in sport.

- Whistles are vital for control, communication, safety and in-line with the laws of the game, especially when large numbers are participating.
- A whistle ensures that players and fans can hear a clear message to maintain discipline and organisation of the game and whistles are likely to reduce the need for shouting.
- A whistle is less intrusive than a vehicle horn, or sirens.
- Prohibiting whistle use is not only unenforceable but could compromise the safety and effectiveness of games. The restriction to ban whistles is therefore impractical.
- Full support of the 'no whistle' restriction being removed. The noise will not be ongoing and is no more than very short moments as a fundamental part of the sports being played.
- Is this a policy just for Cornwallis or a blanket policy for all such pitches?
- Appears that a whistle can be used in other areas of the school with tennis, or netball etc. and no restrictions apply. How can such a rule be enforced in one area let alone proven it came from someone standing on the 3G pitch?

Commercial venture

- Schools should also be free to make profit from the resources available to help support the school and therefore further invest in our young people.
- Facilities must be paid for somehow and people would be likely to be unhappy if funding was through Council Tax.

Noise nuisance

- As a frequent visitor with my young children watching older siblings have not had any experience of bad language or excessive noise.
- As a direct neighbour overlooking the school grounds and pitch, confirm that the pitch does not disrupt us in any way.
- The school have always been respectful, and lights and games stop on time by 9pm weekdays and I cannot recall any evening games over the weekends.

- The 'noise' is no more than background noise with cheering and support given to the players. It is certainly not 'hell'.
- There has been no communication from Loose Residents Group and their comments do not represent all residents.
- If you live near a school noise from sports during school hours and after school should be expected.
- Noise pollution is no different to the constant sirens you hear day in day out in Maidstone.
- Light pollution is only likely in the winter months when the evenings get dark and are no more offensive than cars lights.
- What is the difference with the noise on the grass football pitches which also back on to local houses?

Loose Parish Council

4.03 No objection subject to adherence with all the acoustic related conditions.

Aerial view from the west (Credit: Loose Residents Group)



Loose Resident's Group

4.04 Objection to the application for the following reasons:

- Applicant's information contains several errors and inaccuracies including the date that the original permission was approved, street names and separation distances between the pitch and nearby dwellings.
- Pitch was in full use for over a year, prior to the rejection of parts of the belated discharge decision, used exclusively for football - both competitive games and training, for children and adults, ranging from 30 - 100 persons.
- Shouting and whistles affect local housing for 14 hours a day during the week and 10 hours a day on weekends - through to 10pm in the evenings, without relief.
- Condition 10 is the only meaningful protection of neighbouring amenity and health that exists in the original decision.
- Development is unsustainable, with some complex acoustic characterises not properly investigated or accessed at design stage.
- Without construction of intervening noise barriers, it is all but inevitable that recourse will have to be found through the justice system.

- tragic to see an education facility failed through poor design. Issues were foreseeable, and widespread local support for a fully covered facility, which would have allayed these issues.
- Incredibly disappointing and frustrating situation, particularly where the persons affected by this want to see the Academy flourish and succeed.
- Lack of engagement from the applicant or MBC to seek a design solution has been the greatest impediment to solving this.
- Where you cannot rest, relax or even use your own home without being disturbed it is evident that our position is not from malice, but from a need to protect our own health.

5. CONSULTATIONS

Environmental Health

- 5.01 Objection. In the absence of alternative noise mitigation, the removal of the no whistle policy for the community use of the pitch (taking place at more sensitive times) would be a source of unreasonable intrusive disturbance to nearby residents during community use of the facility which could be every weekend, every evening and bank holidays. This could lead to a substantial interference to rest and relaxation time over weekends, evenings, and bank holidays.

6. APPRAISAL

- 6.01 The previous assessment of the acceptability of the artificial grass pitch at committee in December 2022 (22/503920/FULL) included a 'no whistle policy'. The 'no whistle policy' was put forward by the Academy as part of several measures to reduce neighbour noise impact.
- 6.02 The main consideration with the current s73 application is whether the artificial grass pitch is acceptable in the absence of the no whistle policy'. The main considerations are:
- Removal of the 'no whistle policy' and residential amenity
 - Benefits of the artificial grass pitch

Removal of the 'no whistle policy' and residential amenity.

- 6.03 The Local Plan Review (LPRSP15) states that development should "*Respect the amenities of occupiers of neighbouring properties... by ensuring that proposals do not result in...excessive noise...*".
- 6.04 The NPPF (2024) sets out that "*Planning policies and decisions should contribute to and enhance the natural and local environment*". Decisions should prevent "*...new and existing development from contributing to...unacceptable levels of...noise...*" (NPPF para 187). Planning decisions should "*...mitigate and reduce to a minimum, potential adverse impacts resulting from noise ...and avoid noise giving rise to significant adverse impacts from new development on health and the quality of life*" (NPPF para 198).
- 6.05 The artificial grass pitch is surrounded by natural turf playing fields. These playing fields are unrestricted in terms of the use of referee whistles. The only restriction on the length of time that the playing fields can be used is hours of daylight (up to 2115hrs in summer).
- 6.06 In terms of other local noise sources, there is no known planning restriction on the use of the nearby Academy buildings outside normal hours. Consultation responses have referred to a liquor licence application from the Academy. The use of the Academy buildings outside normal hours would increase the level of activity and background noise levels on the site.

- 6.07 The 'no whistle policy' would not have applied to the surrounding unrestricted natural turf playing pitches (outside the applicant's red line application site boundary). The recommendation of the noise consultant was that the 'no whistle policy' only applied to community use and not to the use of the artificial grass pitch by the Academy during the school day. The subsequent application from the Academy (23/503026/SUB) also sought to relax these requirements further to allow evening use of whistles on 15 occasions a year. This arrangement was found to be impractical.
- 6.08 In addition to the limited period of the day that the 'no whistle policy' applies, (in addition to the referee's whistle), whistling could come from numerous different sources (such as anyone on the wider playing fields or spectators). In these circumstances whistling would be almost impossible to control and therefore unworkable as noise mitigation. A 'no whistle policy' also does not ban whistling. It is for all these reasons that the Academy were advised to apply to remove the 'no whistle policy'.
- 6.09 In place of the earlier indicative desktop noise assessment, in October 2024 officers requested that the Academy carry out a 'real life' assessment of the completed artificial grass pitch (with approved acoustic fence in place on the western boundary and partially to the northern boundary). The results of the noise survey were received on the 12 December 2024.
- 6.10 The noise consultant using Institute of Environmental Management and Assessment (IEMA) guidelines conclude that the increase in noise in the evening will be between 1dB and 5dB and this represents a 'negligible' (>1dB and <3dB) or 'minor' impact (>3dB and <5dB) 'on the existing noise climate'. The report concludes that "...noise from the pitch falls below the threshold for the onset of moderate community annoyance". The report concludes "A no whistle policy is now not considered necessary as noise from whistles is predicted to fall within the proposed criteria".
- 6.11 The council's environmental health officer provides specialist advice on noise related issues. This application is reported to committee as the planning recommendation to approve is contrary to the views of the environmental health officer. There is disagreement between the noise consultant instructed by the Academy and the environmental health officer on the acceptable noise levels for nearby residential properties.
- 6.12 The environmental health officer objection is because it is thought that the removal of the 'no whistle policy' would result in unreasonable disturbance to residents. The environmental health officer seeks mitigation to maintain the earlier actual background noise levels (rather than noise levels from a lawful use), however it appears the only way of achieving this would be full enclosure to create an indoor pitch.
- 6.13 The baseline or starting position for any planning assessment is the existing lawful land use operating at maximum capacity. There is no restriction preventing the use of the surrounding natural turf pitches in the evenings, at weekends or on bank holidays. The only increase from the current 'lawful use' in terms of time is facilitated by the previously approved floodlights and controlled by planning condition to stop at 2200hrs. In this context the approach of the environmental health officer that original noise levels should be maintained is considered unreasonable.
- 6.14 With the baseline of the maximum use of the existing playing fields, the limited impact of the 'no whistle policy' (in terms of the times it would apply and that it would not cover natural turf pitches) and the conclusions of the noise survey and noise consultant comments, it is concluded that use of the artificial grass pitch is acceptable in terms of amenity impact in the absence of the 'no whistle policy'.

- 6.15 Recommended planning conditions seek to ensure regular checking and maintenance of the impact softeners that are designed to reduce the 'rattling' associated with ball impacts on the sides of the artificial grass pitch (condition 11). A planning condition is recommended (condition 5) seeking the retention of the approved acoustic fence. The Academy have submitted a noise management plan that contains a procedure for the submission and assessment of complaints to the Academy concerning noise and a condition requires the artificial grass pitch to operate in accordance with the noise management plan (condition 5).
- 6.16 The MBC community protection team investigate complaints about noise that could be a statutory nuisance. These complaints are investigated outside the planning system under the Environmental Protection Act 1990.
- 6.17 The community protection team have received numerous noise complaints from residents relating to the use of the artificial grass pitch. The community protection team have advised that all these complaints have been fully investigated. In all cases, the complainants provided insufficient evidence to support any further action and the cases were closed. The community protection team have advised all complainants that should they have further evidence which may support further action, the community protection team will be happy to reopen a case.
- 6.18 A complaint made from a resident has been investigated by the Local Government and Social Care Ombudsman (LGSCO). This complaint related to the conduct of MBC staff in dealing with noise nuisance complaints and in allowing the artificial grass pitch to operate for over a year whilst planning conditions were not discharged. The LGSCO decision letter dated 12.12.2024 found "...no fault in the Council's actions and decision making".

Benefits of the artificial grass pitch

- 6.19 Sport England is a statutory consultee for all planning applications that involve loss of natural turf playing fields. In the absence of a community use agreement to maximise use of the artificial grass pitch sport outside normal Academy hours, Sport England would have objected to the artificial grass pitch planning application.
- 6.20 A planning condition restricts the overall use of the artificial grass pitch to the hours of 0800hrs and 2200hrs Monday to Friday; and 0800hrs and 1800hrs on Saturdays, Sundays, and Bank Holidays. Within these times the signed and agreed community use agreement (24/504215/SUB) requires community use between 1700hrs and 2200hrs Monday to Friday, 0800hrs and 1800hrs on Saturdays, Sundays, and Bank Holidays and 0800hrs and 2200hrs during school holidays.
- 6.21 NPPF advice is (para 88) that "*Planning policies and decisions should enable... the retention and development of accessible local services and community facilities, such as ... sports venues...*". The NPPF states "*Planning... decisions should aim to achieve healthy, inclusive and safe places which...enable and support healthy lives, through both promoting good health and preventing ill-health, ... for example through the provision of safe and accessible, sports facilities ...*" (para 96). General advice states "Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities...". Sport England's Planning for Sport Guidance (June 2019) sets out the importance of promoting healthy communities and achieving sustainable development.
- 6.22 The supporting text to policy LPRINF2 Community facilities advises that "*In order to build well-functioning, sustainable communities, it is essential that adequate community facilities are provided*" (para 9.91).
- 6.23 Policy LPRINF2 states "The council will seek to ensure, where appropriate, that providers of education facilities make provision for dual use of facilities in the design

of new schools and will encourage the dual use of facilities in the design of new schools and will encourage the dual use of education facilities (new and existing) for recreation and other purposes”.

- 6.24 Policy LP1 of the Loose Neighbourhood Plan states that consideration should be given to *‘...identified short and long-range views across the countryside and the village...’*. The application site is on playing fields that are almost entirely enclosed by existing built development with areas of landscaping on a proportion of the site boundaries. In this context the application is in accordance with Policy LP1 of the Loose Neighbourhood Plan. The proposal providing sports facilities on existing playing fields is considered in line with policy LP3 Design of Development in the Countryside.
- 6.25 Sport England’s Planning for Sport Guidance (June 2019) sets out the importance of promoting healthy communities and achieving sustainable development. The guidance mentions that many educational sites have very good sports facilities which are often underused out of normal school hours. The document covers issues such as community use agreements and provides guidance on how they should be managed and to provide a safe environment as well as setting out how the community use is intended to operate.
- 6.26 As part of the evidence base for the Local Plan Review the MBC Playing Pitch Strategy was published in November 2020. The Playing Pitch Strategy provides a baseline for current and future supply and demand assessments and sets out a vision with a strategic approach to sport and recreation provision in the Borough in the short, medium and long term (to 2037). The strategy also establishes the proposed provision of pitches and related facilities will meet future demand and reflect sustainable development objectives.
- 6.27 The Playing Pitch Strategy found an issue with securing football pitches for community use with 25% of pitches on unsecured sites and a particular issue with ‘3G’ pitches, where two of the five full-sized pitches found to be on sites with unsecured community use.
- 6.28 The FA Maidstone ‘Local Football Facilities Plan’ and the Playing Pitch Strategy (carried out on behalf of the Maidstone Council) both identify a need for two additional 3G football pitches like the pitch that is currently proposed as part of this planning application.
- Other matters
- 6.29 Consultation responses raise issues about the approved floodlights for the artificial grass pitch. The details of the floodlighting submitted with the original application and in the discharge of the planning condition (condition 5) were found to be acceptable in terms of neighbour impact. The current application is restricted to considering whether referee’s whistles should be allowed outside the normal Academy day.
- 6.30 Comments have been made about commercial ventures by the Academy. Sport England support for the artificial grass pitch was dependent on the Academy maximising the community use of the pitch outside the normal Academy day. There is also a requirement in the community use agreement that both fees for use of the pitch are affordable and that the artificial grass pitch is not financially dependent on the Academy.
- 6.31 Concerns in respect of postal invitations to the original committee meeting in October 2022 have been the subject of several formal complaints. After investigation the responses to these formal complaints set out that correct procedures had been followed and the decision correctly made. The impact of the application on property sales is not a planning consideration.

PUBLIC SECTOR EQUALITY DUTY

- 6.32 Due regard has been had to the Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine the objectives of the Duty.

7.0 CONCLUSION

- 7.01 With the benefit of evidence from actual 'real life' noise survey information, the acoustic consultant instructed by the Academy revised their original conclusions. The revised advice is that the 'no whistle policy' (that applied only to community use of the artificial grass pitch) is no longer required.
- 7.02 Current application seeks the removal of the requirement for a 'no whistle policy'. Legal tests for planning conditions include the need for them to be 'necessary', 'reasonable', 'enforceable', 'precise' and relevant to planning (NPPF para 57). In the context of the lawful, longstanding, and unrestricted use of the surrounding land as playing fields and the conclusions of the noise survey, it is found that the requirement for a 'no whistle policy' fails the 'necessary', 'reasonable', and 'enforceable' legal tests. As having a 'no whistle policy' does not actually ban whistles, it is also now questioned whether the condition requirement is sufficiently precise.
- 7.03 The need for the artificial grass pitch in the borough was identified separately in two different assessments, the Football Association Maidstone 'Local Football Facilities Plan' July 2020 and the MBC Playing Pitch Strategy November 2020 with a particular gap in provision found in the south of the borough.
- 7.04 The increased use of the playing fields and the artificial grass pitch with whistling will increase noise nuisance from the site, however this impact needs to be weighed against the existing unrestricted use, the revised acoustic consultant's recommendations and the wider society benefits. The physical and mental health benefits of increased participation in sport are evident in the general support for sports provision set out in the Local Plan Review and the NPPF.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee:

- (1) The development hereby approved shall be carried out in accordance with the following approved plans and document:
- SSL3028 01 - Topographical Survey
 - SSL3028 02 - Site Location Plan
 - SSL3028 03 Rev 01 - Proposed Site Plan
 - SSL3028 04 Rev 01 - Proposed ATP Plan
 - SSL3028 05 Rev 01 - Proposed Elevations
 - SSL3028 07 - Proposed AGP Drainage Layout
 - SSL3028 08 - Proposed AGP Drainage Strategy
 - SSL3028 09 - Proposed Playing Pitch Layout
 - Design and Access Statement
 - Appendix A - Floodlighting Performance Report
 - Appendix B - LED Floodlight Data Sheet
 - Appendix C - ILP Guidance Notes
 - Appendix D - Proposed Materials and Appearance
 - Appendix E - Drainage Strategy
 - Appendix G - Tree Survey and Arboricultural Impact Assessment
 - Appendix H - Ecology and Landscape Use Assessment

- Biodiversity Enhancement Strategy document by BJ Collins dated 16 May 2023 (submitted with 23/503026/SUB).
- Landscaping details email and 4 attached photographs from Surfacing Standards Ltd sent: 30 November 2023 (submitted with 23/503026/SUB)
- Acoustic Consultants Limited report, reference: 11169/DO titled 'Planning Condition 10' dated 10 December 2024 including results of the noise survey carried out on the 19 November 2024 received 12 December 2024 (submitted with 24/503628/FULL).
- Noise Management Plan (Rev F received 12 December 2024 including named contact for complaints at the Academy and procedure to dealing with complaints) (submitted with 24/503628/FULL).
- Floodlighting report, document titled 'Lighting design meets the standards for ILP GN01:2021' dated 24 February 2022 (submitted with application 23/503026/SUB).
- Drawing number 06 titled 'Floodlighting Scheme dated 07 March 2022 (submitted with application 23/503026/SUB).
- Acoustic fence details Surfacing Standards Ltd titled 'Discharge of Planning Conditions' (conditions 11 and 14) dated 07 October 2024 (submitted with application 24/504215/SUB)
- Community use agreement dated October 2024 and titled '3G Community Use Agreement' (Submitted with application 24/504215/SUB).
- Artificial Grass Pitch maintenance - 3G Pitch Daily Inspection Sheet, 3G Pitch Maintenance Guide Timings, 3G Pitch Weekly Maintenance Guide, Cornwallis Academy Maintenance Proposal, Maintenance Equipment Guide, and Maintenance Manual (Submitted with application 23/503026/SUB).

Reason: in the interests of proper planning.

- (2) The approved biodiversity enhancement approved (Biodiversity Enhancement Strategy document by BJ Collins dated 16 May 2023 (submitted with 23/503026/SUB) shall be retained and maintained for the lifetime of the approved artificial grass pitch.
Reason: In the interests of ecological enhancement.
- (3) If any of the approved landscaping to the western and northern boundaries (Landscaping details email and 4 attached photographs from Surfacing Standards Ltd sent: 30 November 2023 (submitted with 23/503026/SUB) fails to establish or if within ten years from first use of the approved artificial grass pitch facility, if any landscaping is removed, dies or become so seriously damaged or diseased that long term amenity value is adversely affected the landscaping shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.
Reason: In the interests of landscape visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- (4) The Artificial Grass Pitch and its associated sports lighting shall not be used outside the hours of:
a) 08:00 and 22:00 Monday to Friday; 08:00 and
b) 08:00 and 18:00 on Saturdays, Sundays, and Bank Holidays.
Reason: To balance illuminating the artificial grass pitch for maximum use and benefit to sport with the interest of amenity and sustainability.
- (5) The approved artificial sports pitch shall only operate in full accordance with the following approved documents relating to noise and the floodlights:
- Acoustic Consultants Limited report, reference: 11169/DO titled 'Planning Condition 10' dated 10 December 2024 including results of the noise survey carried out on the 19 November 2024 received 12 December 2024 (submitted with 24/503628/FULL).
 - Noise Management Plan (Rev F received 12 December 2024 including named contact for complaints at the Academy and procedure to dealing with complaints) (submitted with 24/503628/FULL)

- Floodlighting report, document titled 'Lighting design meets the standards for ILP GN01:2021' dated 24 February 2022 (submitted with application 23/503026/SUB).
- Drawing number 06 titled 'Floodlighting Scheme dated 07 March 2022 (submitted with application 23/503026/SUB).

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

- (6) The acoustic fence hereby approved shall be retained and maintained for the lifetime of the approved artificial grass pitch in accordance with the approved details (Surfacing Standards Ltd titled 'Discharge of Planning Conditions' conditions 11 and 14 dated 07 October 2024 submitted with application 24/504215/SUB).

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

- (7) The floodlighting hereby approved shall be retained and maintained for the lifetime of the approved artificial pitch in accordance with the details in the following documents

- Floodlighting report, document titled 'Lighting design meets the standards for ILP GN01:2021' dated 24 February 2022 (submitted with application 23/503026/SUB).
- Drawing number 06 titled 'Floodlighting Scheme dated 07 March 2022 (submitted with application 23/503026/SUB).

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers and in the interests of visual amenity.

- (8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking or re-enacting that order), the artificial grass pitch hereby approved shall not be used other than for outdoor sport.

Reason: To protect the artificial grass pitch from damage, and to maintain the quality of and secure the safe use of the facility.

- (9) The approved artificial grass pitch shall only operate in full accordance with the approved community use agreement (dated October 2024 and titled '3G Community Use Agreement'. Submitted with application 24/504215/SUB) (community use available Saturdays, Sundays and Bank Holidays 0800hrs to 1800hrs, weekdays Academy term time 1700hrs to 2200hrs, weekdays Academy holidays 0800hrs to 2200hrs)

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport.

- (10) The drainage implemented as shown on the submitted drawings SSL3028 07, SSL3028 08 and Appendix E (Drainage Strategy) shall be retained and maintained for the lifetime of the artificial grass pitch.

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers

- (11) The approved artificial grass pitch shall operate and be retained and maintained in full accordance with the following approved documents:

- Artificial Grass Pitch maintenance - 3G Pitch Daily Inspection Sheet, 3G Pitch Maintenance Guide Timings, 3G Pitch Weekly Maintenance Guide, Cornwallis Academy Maintenance Proposal, Maintenance Equipment Guide, and Maintenance Manual (Submitted with application 23/503026/SUB).

Reason: To ensure that the artificial grass pitch is capable of being managed and maintained so that it is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport.

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.