

**SITE PLAN ATTACHED**

**LAND ADJ TO 152 CHELMSFORD ROAD, SHENFIELD, ESSEX**

**REMOVAL OF CONDITION 4 (CYCLE PATH WIDENING) AND 5 (PEDESTRIAN CROSSING PROVISION) OF APPLICATION 16/01476/FUL (CHANGE OF USE FROM AGRICULTURAL TO RECREATIONAL/SPORTING USE AND THE FORMATION OF 3NO GRASS FOOTBALL PITCHES, CAR PARKING, CHANGING ROOMS AND NEW SITE ACCESS. THE COST OF IMPLEMENTING BOTH CONDITIONS IS PROHIBITIVELY EXPENSIVE.**

**APPLICATION NO: 19/00433/FUL**

**WARD**                      Shenfield

**PARISH**

**CASE OFFICER**      Mrs Nikki Dawney                      01277312500

**The application has been referred by Cllr Pound and Cllr Hossack for the following reason:**

**Conditions attached to previous planning application not relevant.**

**1. Proposal**

Hutton Football Club is a widely respected amateur football club which hosts 60 teams from under 7s to adult footballers and pre-school football fun sessions. The Club was formed in 1928 and totals over 600 playing members and a large volunteer workforce. The continued growth of the club and its community value was acknowledged and supported in the granting of planning permission on the 3rd May 2017 by the Planning and Licencing Committee for the change of use of agricultural land adjacent to 152 Chelmsford Road to recreational/sporting use.

This site which forms part of the Green Belt, gained conditional consent for the formation of x3 football pitches, car parking, changing rooms and new site access to enable Hutton Football Club to relocate to a larger site from Polo Fields, Hall Green Lane. In the interest of highway safety, to ensure harmless pedestrian and cycle access and conform to national and local planning policy, conditions 4 - cycle path widening and condition 5 – pedestrian crossing provision were attached to planning consent 16/01476/FUL.

The current application seeks to remove these conditions as the expense of implementation would prevent the development from coming forward. Hutton Football Club is largely financed by partner funding. The Football Foundation are a significant contributor, but in this instance, The Football Foundation would solely focus on the football pitches and a potential contribution towards car parking and cannot meet the total cost of the development. The remaining cost for the changing rooms, site access, cycle path widening and pedestrian crossing provision would therefore require additional partner funding. The total estimated cost of the development (appendix 1) is:

£1,063, 884.57 of which

£40,000 relates to condition 4 – cycle path widening

£15,000 relates to condition 5 – pedestrian crossing provision.

The applicant proposes that these costs should be funded through CIL/s106 attached to a nearby strategic housing allocation proposed in the emerging Local Plan.

## **2. Policy Context**

Local Development Plan:

The emerging Local Development Plan went through Pre-Submission (Publication Draft) Stage (Regulation 19) consultation between 5 February and 19 March 2019. The responses to the consultation are currently being assessed. Following this, the LDP will be submitted to the Secretary of State for an Examination in Public in Q3 or Q4 of 2019. Provided the Inspector finds the plan to be sound, it is estimated that it could be adopted by the Council in early/mid 2020.

The Brentwood Replacement Local Plan 2005 remains the development plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF). Due weight should be given to them, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

As the emerging plan advances and objections become resolved, more weight can be applied to the policies within it. At this stage there are outstanding objections to be resolved, nevertheless, the Local Plan Pre-Submission (Publication Draft) provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations.

National Planning Policy Framework (NPPF) 2018:

Section 9 – Promoting Sustainable Transport

Local Plan Saved Policies 2008  
Policy CP1 – Development Criteria  
Policy T14 – Cycling  
Policy T15 – pedestrians

### 3. **Relevant History**

- 16/01476/FUL - Change of use from agricultural to recreational/sporting use and the formation of 3no grass football pitches, car parking, changing rooms and new site access. Approved

### 4. **Neighbour Responses**

1 letter of objection has been received relating to pedestrian safety.

### 5. **Consultation Responses**

- **Highway Authority**

Firstly, it is a fundamental requirement of NPPF that “*safe and suitable access can be achieved for all users (para 108 b).*” Clearly this includes pedestrian access, so it is incumbent on the applicant to provide this.

In addition, para 110 of NPPF states that applications for development should:

*a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*

*b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

*c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards*

The proposal to remove the pedestrian island would clearly contravene the above.

Currently, the north side of Chelmsford Road is a designated cycleway only. There is therefore the need to safely connect into the site for pedestrians as well. The natural desire line for pedestrians would be to cross the road close to the main site access. Chelmsford Road is categorised as a Main Distributor route with Essex County Council's road hierarchy; it is a very busy road as it is the main connection for Brentwood and Shenfield to the north and the A12. It is therefore essential that a facility is provided to allow people to cross such a busy road safely. The fact that the site is likely to be used by many children only emphasises this.

The proposed pedestrian island fulfils two functions. Firstly, it provides a refuge for pedestrians to cross to a halfway point. Given the heavy traffic flows, crossing the whole carriageway is often not possible. Secondly, the island would function as a safety feature to protect the proposed right turn lane into the site; effectively it would prevent any A12 north-eastbound traffic from pulling out to go around a vehicle slowing to turn left into the site. The island also provides a fringe benefit by contributing to lower vehicle speeds; street furniture is often used to assist with this aim and there are examples of this on Chelmsford Road.

Lastly, regarding Condition 4 (cycle path widening), this was recommended by the highway authority in order to comply with Essex design standards. As noted above, the north side of Chelmsford Road is a designated cycleway. Essex design standards guidance is that a minimum 3m width facility is provided to safely accommodate both modes together.

- **Planning Policy**

From reading the application details (ref: 19/00433/FUL) it is understood that the proposals concern the removal of conditions 4 (cycle path widening) and 5 (pedestrian crossing provision) attached to permission ref: 16/01476/FUL for the creation of 3 football pitches and associated facilities. The applicant has set out within their planning statement that the costs of implementing both conditions would be prohibitively expensive preventing the proposed development coming forward. The applicant proposes that these should be funded through CIL/s106 attached to a nearby strategic housing allocation proposed in the emerging Local Plan. This response considers the nature of the conditions requested to be removed, overview of the nearby strategic housing allocation and the timing of the application in relation to the emerging Local Plan.

Nature of conditions requested to be removed

The benefits that the creation of new and improved football facilities in the Borough are recognised. However, it is apparent that these conditions are necessary in achieving highway safety standards. It is noted that the comments raised by the Highway Authority highlight that the provision of a pedestrian crossing is to enable safety of all highway users including pedestrians. In addition, the widening of the cycle path allows

for the safe use of the path by cyclist and pedestrians. Based on the views raised by the Highway Authority it is clear that the provision of these highway features are necessary to ensure users of the football ground can access it on a safe basis.

### Emerging Brentwood Local Plan – Strategic Housing Allocation R03

The applicant's view is that in lieu of providing the pedestrian crossing and widening the cycle path as part of the application that these could be funded by CIL or S106 arising from a nearby Strategic Housing Allocation proposed within the emerging Local Plan. The Strategic Housing Allocation is referred to as Policy R03 Land north of Shenfield and comprises a residential allocation for around 825 homes. In addition the site will bring forward a new primary school, care home, self-build and custom build homes as well as employment opportunities. The policy also outlines that the site is expected to provide appropriate pedestrian and cycle crossing points across Chelmsford Road, improved bus services and surface water flooding mitigation.

Policy R03 sets out the requirement for a masterplan, this is because the allocation comprises a number of parcels which could be brought forwards at different times. As individual parcels are brought forwards the masterplan will need to appropriately consider and reflect what is being proposed elsewhere on the site. This is particularly important in ensuring that collective requirements for infrastructure provision are considered and delivered appropriately. As a starting point the Council published a [site analysis overview](#) document in February 2019 for selected strategic housing sites. This document provides an overview of the key issues that need to be considered, it is indicative and does not represent final proposals. The plan for site R03 highlights the need for pedestrian crossings across Chelmsford Road and recognises the Hutton Football club proposals.

The infrastructure requirements arising from the proposed allocation would need to be applicable to the impacts caused by the development. Whilst Policy R03 does set out the need to provide appropriate pedestrian and cycle crossing points across Chelmsford Road the details and location of the crossings that would be required to mitigate the proposed development have not been determined. This would be done through the process of preparing the application and consulting the Highway Authority. It is likely that this infrastructure would be funded through s106 rather than CIL, they would need to be commensurate to the impact of the proposed development. There is no guarantee that the pedestrian crossing and cycle path widening required for the football pitches could be reasonably connected to the proposed development allocated in the emerging Local Plan. Therefore there is a risk that if future development in the Local Plan was relied upon as a means to fund these necessary highway improvements it may not happen.

### Timing of application

The timing of the application is an important factor to consider. With the application likely to be determined in advance of the adoption of the Local Plan and outstanding objections to policies and allocations there is limited weight that can be attached to the

policies and allocations within it. In addition, the Strategic Housing Allocation R03 is currently within the Green Belt which would still be in effect until the plan is adopted. This means an application for the allocation is more likely to be determined nearer to adoption of the Local Plan. Currently the Local Plan has been through Regulation 19 consultation and is due to be submitted in Q3 2019, this will then be subject to the examination process with potential adoption in Spring/Summer 2020. Due to the limited weight that can be attached to the emerging Local Plan any potential funding of the pedestrian crossing and cycle path widening could not be relied upon with certainty in making a decision now.

Notwithstanding the issues raised above concerning relying on future Local Plan allocations to fund the pedestrian crossing and cycle path widening, if the application was approved on this basis there is likely to be a period of time before emerging Local Plan housing development and associated infrastructure is delivered. S106 funding can only be secured following planning consent. The housing trajectory set out within the Local Plan estimates that the land north of Shenfield would start delivering homes by 2023/24. Therefore, it is possible that if the application was permitted, the pedestrian crossing and cycle path widening would not be delivered for a number of years. Based on the highway safety issues raised by the Highway Authority this would not appear to be an acceptable situation.

### Summary

Based on the views of the Highway Authority it is apparent that the pedestrian crossing and cycle path widening are needed from a highway safety perspective.

Whilst we understand the merits of the approach being proposed by the applicants in potentially funding the highway works through CIL/S106 connected to development proposed in the emerging Local Plan. There are a number of potential issues with this approach:

- The Local Plan is still due to go through the examination process with outstanding objections still to be resolved. Therefore limited weight can be given to the policies and allocations within it;
- Whilst the need for infrastructure required for the development of land north of Shenfield (R03) has been identified in the plan the details of these would still need to be determined at the point when an application is submitted;
- Infrastructure requirements for emerging Local Plan allocations would need to be relevant to the development. There is the possibility that any crossings across Chelmsford Road needed for future housing development may not be suitable for the needs of the football ground;
- If this application was permitted on the assumption that emerging Local Plan housing development would fund highway improvements, likely that a number of years would pass before these improvements are implemented. Funding could not be secured from the housing development in advance of planning permission being granted. Would therefore create a highway safety issue in the interim period.

## **6. Summary of Issues**

The site is located to the north-west of the Chelmsford Road (part of the A1023) which is a busy thoroughfare across the centre of the borough. The A12 is located to the north-west and residential properties are located to the south-west on the opposite side of the Chelmsford Road. The site is located around 1km from the junction of the A1023 and the A12. Shenfield High School is located on the southern side of the A1023 to the southwest of the site.

Given the existing membership of over 600 adults and children it is anticipated that a high number of users would visit the site during the week and particularly at weekends using various modes of transport.

### **Condition 4**

Relates to the widening of the existing cycle path on the north side of Chelmsford Road which is a designated cycleway. A portion of the cycleway would be widened to meet the minimum Essex design standards and provide safe access to the site for both pedestrians and cyclist. This requirement is compliant with section 9 of the NPPF and conforms to Local Plan policy T14 which states that the borough will promote cycling as an alternative means of transport to the private car use in association with planning permission for new development.

### **Condition 5**

The pedestrian crossing provision would take the form of an 'island' and would be located at the main desire line within close proximity to the main entrance of the site and would provide safe refuge for users of the site wishing to arrive by foot and public transport. In addition, the island would serve as a traffic safety measure for vehicles wishing to turn right here and also reduce the speed of passing vehicles.

CP1 and T15 relate to pedestrian facilities and highway safety and are compliant with NPPF sections 9. Planning policy CP1 iv) requires all development to provide satisfactory means of access to the site for vehicles and pedestrians and parking and servicing arrangements.

Planning policy T15 relates to pedestrian facilities and states that the council will promote walking as an alternative to the use of the car, particularly for shorter trips, through i) the provision of safe and convenient pedestrian routes and ii) improved conditions for pedestrians by increasing pedestrian priority, implementing traffic calming measures. Therefore this requirement is compliant with relevant Local Plan Policies and NPPF section 9.

Policy T15 also states that where appropriate, contributions will be sought towards the improvement of pedestrian facilities and routes in association with planning permission for new development.

The partnership funding status of the club was carefully considered alongside the need for pedestrian and cycle safety during the assessment of the original planning application 16/01476/FUL and the partial extension of the cycle path and the pedestrian crossing provision was considered by the Highways Authority as the most economical and policy compliant solution.

Meetings have taken place between the applicant, agent, planning and highways officers to better understand the funding mechanisms offered to the club by the Football Foundation, the cost projection of the development (appendix 1) and the time constraints of the club. However, whilst planning policy T15 alludes to the procurement of financial contributions to improve pedestrian facilities the application of Sec106 agreements, as outlined in the Planning Policy consultation response above, are subject to a number of unpredictable factors and in this instance, these contributions cannot be sought and applied at this time.

It must be noted that although this development would result in a community facility it is not the role of the Local Planning Authority to ensure that a shortfall in funding is met to bring forward development.

The site will be visited sporadically by in excess of 600 adult and child members. Safe access at all times is the primary material consideration in this instance. The development as approved and the conditions attached to it would provide suitable pedestrian and cycle access which is safe, satisfactory and compliant with national and local planning policy.

The highways authority have provided a detailed and comprehensive assessment of the proposal and consider that the proposed cycle path and pedestrian crossing provision are essential to provide safe access to the site for pedestrians and cyclists and the removal of conditions 4 and 5 would contravene NPPF policy detrimental to the safety of pedestrians and cyclists and is non complaint with planning policy T14 and T15 of the Local Plan Saved Policies 2008.

#### Moving forward

Planning permission 16/01476/FUL expires on 3rd May 2020. The Planning Department have been in continuous talks with the applicant and agent in an attempt to move the application forward within the confines of national and local planning policy and offer the following suggestions:

- Planning permission is resubmitted. Whereby approved, including all conditions notably 4 and 5, the club would be afforded a further 3years to seek full funding for the development.

- Amendments to approval 16/01476/FUL for the surface treatment of the car parking area may be considered in order to assist the club in reducing the projected development cost.

## **7. Recommendation**

That the application be REFUSE subject to the following conditions:

1 The proposed cycle path and pedestrian crossing provision are essential to provide safe access to the site for pedestrians and cyclists and the removal of conditions 4 and 5 would contravene NPPF policy detrimental to the safety of pedestrians and cyclists and is non compliant with planning policy T14 and T15 of the Local Plan Saved Policies 2008.

Informatives:

1: The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 T14 T15; National Planning Policy Framework (NPPF) 2019 and NPPG 2014.

2: The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, a suggested way forward to enable the planning permission to be undertaken at a later date and which may lead to the submission of a more acceptable proposal in the future. Further advice may be sought from the Local Planning Authority via the pre-application service prior to the submission of any revised scheme. Details of the pre-application service can be found on the Council's website at [www.brentwood.gov.uk/preapplicationadvice](http://www.brentwood.gov.uk/preapplicationadvice)