

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended)**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR  
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	<b>2024/44/90239/E</b>
Site Address:	Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA
Description:	Discharge of conditions 9 and 10 (ball-stop netting) of previous permission 2023/92327 for the erection of 6 dwellings, including associated parking, landscaping, open space and ball stop netting (modified proposal).
Recommending Officer:	Ellie Thornhill

**DECISION – Discharge of Conditions – Approve**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

*Victor Grayson*

**AUTHORISED OFFICER**

**Date: 02/12/2024**

**Application:** 2024/90239

**Site:** Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA

**Proposal:** Discharge of conditions 9 and 10 (ball-stop netting) of previous permission 2023/92327 for the erection of 6 dwellings, including associated parking, landscaping, open space and ball stop netting (modified proposal).

*Officer note: This Discharge of Condition application was originally registered with the following description: "Discharge conditions 4 and 5 (ball-stop netting) on previous permission 2021/93286 for reserved matters application pursuant to outline permission 2020/91215 for erection of 41 dwellings". However, it has been amended to the above to take into account discussions with the agent which establishes that conditions 9 and 10 of the 2023/92327 permission are the correct conditions to be discharged.*

**Condition 9: Detailed design of the ball-stop netting and associated support columns**

*9. Prior to works commencing on the superstructure, the detailed design of the ball-stop netting and associated support columns shall be submitted to and approved by the Local Planning Authority following consultation with Sport England. The agreed ball-stop netting design shall be installed prior to the occupation of any dwelling within the site that the Labosport report deemed at risk of ball strike, to the satisfaction of the Local Planning Authority. Reason: In the interests of minimising the risk of injury and damage to property arising from adjacent uses and to accord with Policy LP50 of the Kirklees Local Plan.*

**Assessment**

In support of condition 9 the following documents have been submitted:

- Ball strike netting design and maintenance document (Newett Homes, dated 22/11/2024)
- Ball trajectory assessment (Labosport, dated 08/10/2024)
- Letter regarding an assessment for the structures and systems (PZ&W Consulting, dated 24/04/2024)
- Ball strike net plan (reference Z155.111 rev B)
- Cricket fencing details (reference DW12012422 rev 04)

One comment has been received in response to this condition. The concerns raised are as follows:

- On AJW's plan (appendix C of the report) it says in bottom right corner "this drawing is a general arrangement with dimensions shown subject to client providing final specifications for this project" But Newett refer to this plan on page 2 of their report as follows "a detailed design of the ball stop netting is provided in appendix C".

*Officer comment: This document has been amended throughout the course of the application.*

- There should also be engineers' full specification plus calculations on strength of the whole structure taking into account height and width of structure plus weather/wind conditions. Will the stanchions be strong enough to withstand winds - engineers should look at this and design diameter of stanchions, depth and width of the concrete foundations depending on the ground conditions.

*Officer comment: Revised plans and information have been sought, along with a letter from Labosport which reviews the technical information submitted and confirms their acceptability.*

- AJW's plan appears to show five narrow posts/stanchions whereas Newett Homes own section plan of the nets (in the same report) shows only three wide stanchions - this is misleading and should be clarified.

*Officer comment: Six stanchions are shown on both plans.*

- Newett comment 1.5 states poles finished in olive green. Is this a painted finish or a coated plastic type finish? What guarantees are there that if painted, weathering will not quickly erode such a finish?

*Officer comment: The netting is proposed to be black knotted polyethylene 50mm mesh size suspended from 12mm polyester ropes. The stanchions are CHS s355 steel poles finished in olive green.*

- Newett comments 1.7 and 1.8 describe the netting array and support columns which will be located and anchored between the existing cricket boundary wall and the rear boundaries of the adjacent houses which will also probably incorporate a claimed PROW. How can the safety of their described pulley and rope netting system be protected from potential abuse, damage and climbing danger?

*Officer comment: The nets would be lowered outside of cricket season to help prevent any damage.*

- Expansion in level of cricket played at the field (professional level) will mean balls could be hit further/higher/harder - is this accounted for in ball stop specification? Or will cricketing levels potentially be stifled from progressing upwards by an inadequate netting system?

*Officer comment: The height of the net was agreed as part of the Reserved Matters application, at the recommendation of Labosport. This condition does not seek to re-assess this issue.*

- Will the eight affordable plots also contribute to development yearly management costs? If not then liability is divided actually between 32 plots. Has this been accounted for in the funds required to cope with the ongoing costs the netting strategy will require?

*Officer comment: This is outside of the remit of this application.*

Sport England have been consulted multiple times as part of this discharge of condition process, given the amended information sought. Their latest comments from the 06/11/2024 set out that:

- *Drawings don't seem to reflect the presence of a 2m timber fence before the netting starts (location of pulleys also to be identified). We are also questioning the position of the fence on the drawings versus the reality of the existing site boundary, the PROW runs across the boundary.*

**Officer comments:** The pink line on the plan Z155.111 rev B shows the location of the fencing. The fence would then run underneath the ball stopping net, as shown on DW12012422 rev 04 up until the end stanchions.

- *The presence of existing trees would interfere with the positioning of the proposed fence. The club are open to a conversation with the developers for the removal of some/all of the trees.*

**Officer comment:** This concern is outside the remit of this application which requires details on the design of the ball strike net. This would be a private matter between landowners.

- *There is currently a boundary wall marking the boundary of the cricket club land. The proposed positioning of the fence would mean the concrete foundations for the fence (measuring 3m x 3m x 1m) would undermine the current boundary wall. This would make the wall structurally unsafe. The club are open to conversations with the developer as to possible solutions for this.*

**Officer comment:** This would be a civil matter outside of the remit of this application which requires details of the design of the ball strike net.

The above concerns are not directly related to condition 9 (and/or do not constitute outright objections from a statutory consultee regarding the proposals), and officers have undertaken their own assessment of the information submitted.

The plans and information submitted show the height of the ball strike net to be 17m as approved as part of the original Reserved Matters application (2021/93286). The netting would be 75m long (supported by six support posts) with additional 2.5m stays at each end of the netting. Each post would feature a concrete foundation.

The length of the netting would be slightly longer than approved, extending further to the east of plot 14 and west of plot 19 to cover the full extent of the claimed PROW. This has been proposed at the request of Sport England in their consultation response from 28/05/2024 which stated that *"The netting should cover the length of the development site and should therefore extend at either end, so it runs from the intersection with the public right of way to the end of the drystone wall separating the cricket club and the development site"*.

Whilst the extension of the net would have a greater visual impact, given its relative length compared to the approved net, and the fact that this discharge

of condition application takes into account the design of the netting, it is considered appropriate to accept the proposed enlargement under details submitted pursuant to condition 9. In this instance, no objection is raised to the extension in the length of the netting, as it would also overcome some of the concerns raised by local residents.

The netting has been designed so that it is raised 2m off the ground, this is to avoid animals damaging the bottom of the netting and to improve the lifetime of the netting. In the absence of netting to the lower 2m, a 2m close boarded fence is proposed. Gates are proposed to each end, as per the layout drawing, to secure the netting from passers-by.

The netting is to be black knotted polyethylene 50mm mesh size suspended from 12mm polyester ropes. The stanchions are to be CHS s355 steel poles finished in olive green.

The design and maintenance document sets out that the net would be constructed with a pulley system to enable the raising and lowering of the net. This is considered to be beneficial for the maintenance of the netting, to improve its longevity, but would also improve the visual amenity of the site (when compared with a fixed net that couldn't be lowered).

Paragraph 1.8 of the submitted design and maintenance document sets out that engineering calculations have been undertaken based upon the detailed design; a letter of the findings is provided at Appendix C. The letter states: *“we deem the columns and the catch netting system to be fit for purpose and suitable to withstand the worst-case loading”*.

Engineering calculations have also been undertaken as part of this assessment. Labosport have reviewed the design of the netting (with particular reference to its height and length) and considered it to be acceptable. This letter can be found within Appendix D of the design and maintenance document.

Given the above assessment, officers are satisfied that the details provided are acceptable pursuant to the condition. However, it is recommended that the applicant be reminded that the approved ball-stop netting needs to be installed prior to the occupation of any dwelling within the site that the Labosport report deemed at risk of ball strike (i.e., plots 14-19).

### **Condition 10: Management and maintenance plan for ball stop netting**

*10. Prior to works commencing on the superstructure, a management and maintenance plan in respect of the approved ball stop netting, will shall include provision for routine inspection and maintenance, and long-term repair and replacement of columns, netting and such other associated apparatus, shall be submitted to and approved by the local planning authority following consultation with Sport England. The approved plan shall come into force upon the satisfactory installation of the approved ball-stop netting.*

**Reason:** *In the interests of minimising the risk of injury and damage to property arising from adjacent uses and to accord with Policy LP50 of the Kirklees Local Plan.*

## **Assessment**

- Ball strike netting design and maintenance document (Newett Homes, dated 22/11/2024)

One comment has been received in response to this condition. The concerns raised are as follows:

- The condition states that prior to the commencement of the development, a scheme for the management and maintenance of the approved ball-stop netting shall be approved. This was not the case. How could such a scheme be prepared when the design of the netting wasn't even decided or approved? Building was started without any of the above.

*Officer comment: This has been noted, however, Newett Homes have been looking to address these conditions since the application was submitted in January.*

- Also Newett comment 1.8 speaks to the concept of a 3.0 metre no-build zone to the rear of house plots 14-20 with removable fence panels in order to provide machinery access for maintenance of the netting. Firstly their site plan clearly shows a garage to the rear of plot 14 which appears to be within said no build zone. In other section appendix's the said garage has mysteriously disappeared! Additionally, whilst Newett propose to show this no-build maintenance strip within conveyancing plans, how will this be monitored and enforced should any home owner choose to ignore and also possibly refuse to allow fence panels to be removed when necessary to carry out the referred to maintenance?

*Officer comment: Newett Homes have removed their reference to a 3m no-build zone from their Detailed Design and Maintenance Scheme document. This was not requested by the council and therefore, no objection is raised to this.*

- Newett comment 1.9 – 1.16 describes the netting responsibility to be with a management company. Should such a company be dissolved or underfunded, what indemnity could the cricket club expect in order to ensure that continued responsibility, maintenance and repair cost funding was still in place for the long term future? And where would the costs be met from in this eventuality?

*Officer comment: It would be the responsibility of Newett Homes to appoint a new management and maintenance company.*

- At the recent meeting of the Kirklees Heavy Woollen Planning Committee, Councillors were advised of the proposal to surface the PROW and ball stop netting area with hardcore. If high level access machinery is required in order to carry out work on the netting, is such a

surface material acceptable on which to safely operate with personnel working at such great heights above?

*Officer comment: It is likely that the hardcore would be suitable for providing access to the machinery.*

- Regarding the maintenance of the nets and stanchions - a detailed maintenance 'method statement' should be provided with accompanying risk assessment. For example how often is it recommended that maintenance checks be carried out - on what basis are Newett suggesting once a year is enough? Where is the risk assessment to substantiate only once a year?- How do they recommend maintenance is done? Will the maintenance be carried out by a trained competent person or can anyone do it - where is a method statement for this? What about the pulley systems, how often do they need to be checked? and will this be carried out by a trained competent person? This needs a specific method statement and a risk assessment re all moving mechanical parts.

*Officer comment: Paragraphs 1.11-1.21 of the Ball Strike Netting Design and Maintenance document sets out how the ball strike net would be managed and maintained.*

Sport England have been consulted multiple times as part of this discharge of condition process, given the amended information sought. Their latest comments from the 06/11/2024 set out that:

- *The only reference to a maintenance contract is included in the developers comments. We would like to see a draft copy of any agreement before sign off, which we believe can't be done until the design and positioning (Condition 4) has been signed off.*
- *For avoidance of doubt we would like comment in the draft agreement that in the event of the management company folding, the cricket club will bear no financial or operational liability for the upkeep and replacement of the netting.*

**Officer comment:** This concern has been noted, however, the requirement of condition 10 only stipulates that a Management and Maintenance plan (in respect of the approved ball stop netting) shall be submitted to include the provision for routine inspection and maintenance, long-term repair and replacement of columns, netting and such other associated apparatus. The condition does not require a maintenance contract. Nevertheless, Newett Homes have provided a response to Sport England's comments within their submission to state that *"our contract with the management company can only be drafted once all maintenance obligations are set, therefore we cannot produce a maintenance contract until the maintenance of the netting is agreed/discharged"*.

No further commentary on the information included within the Ball Strike Netting Design and Maintenance document has been provided by Sport England.

Officers have undertaken their own assessment below.

The documentation provided sets out that the management and maintenance of the proposed ball-stop netting would be the responsibility of the Management Company appointed by Newett Homes. The Management Company would be funded by a service charge levied annually on each dwelling within the development.

The information further outlines that the lifetime of the net is expected to be between 5 and 20 years, depending on its exposure to severe weather conditions, and between 15 and 25 years for the posts/stanchions. Paragraph 1.13 sets out the need for routine maintenance on the basis of a complete inspection of the full equipment (netting and posts) prior to the commencement of each playing season.

The document sets out that the net has been designed for easy maintenance as it would include a pulley system to raise and lower each section individually from ground level. The netting can then be patched up, using patching kits, or for any small repairs, a cable tie to secure the netting. Paragraph 1.15 further states that *“Although typical repairs to the netting will not require any machinery due to the pulley system, in the event machinery is required for repairs to the stanchions, a cherry picker can access the netting via the Public Right of Way to facilitate repairs”*.

The Management Company would be responsible for raising the netting prior to the start of the cricket season, and lowering the netting once the cricket season is over. When the netting is not in use, it would be kept at the management company's storage premises off-site.

At least 1 month before the netting is due to be raised, the Management Company would undertake a visual inspection of the netting to ensure it is fit for use for the season ahead. In the event any repairs are identified during the inspection, these would be done prior to the date which the netting is due to be raised.

The document further sets out that Emley Cricket Club would be provided with the details of the appointed management company should they need to report any damage during the cricket season. The Management Company would seek to make the repairs within five working days to ensure minimal disruption. Emley Cricket Club would have no responsibility or liability in relation to the ball-stop system, with the Management Company also being obliged to ensure that the club benefits from an appropriate, fit-for-purpose facility.

As such, officers are satisfied that the Ball Strike Netting Design and Maintenance document (dated 22/11/2024) adequately addresses the requirements of condition 10.

However, it is recommended that the applicant be reminded that the approved scheme would come into force upon the installation of the approved ball-stop netting.

## **Decision notice text**

### **Condition 9: Detailed design of the ball-stop netting and associated support columns**

Pursuant to condition 9 the following documents have been submitted:

- Ball strike netting design and maintenance document (Newett Homes, dated 22/11/2024)
- Ball trajectory assessment (Labosport, dated 08/10/2024)
- Letter regarding an assessment for the structures and systems (PZ&W Consulting, dated 24/04/2024)
- Ball strike net plan (reference Z155.111 rev B)
- Cricket fencing details (reference DW12012422 rev 04)

The documentation and plans provided in respect of condition 9 adequately address the condition. An acceptable design for the ball-stop netting has been proposed (including for the associated support columns required). The details are hereby approved.

However, please be reminded that the agreed ball-stop netting design is required to be installed prior to the occupation of any dwelling within the site that the Labosport report deemed at risk of ball strike (i.e., plots 14-19).

### **Condition 10: Management and maintenance plan for ball stop netting**

Pursuant to condition 10 the following document has been submitted:

- Ball strike netting design and maintenance document (Newett Homes, dated 22/11/2024)

The submitted management and maintenance plan for the ball strike net is adequate in order to protect residential amenity and to not prejudice the use of Emley Cricket Club's ground, which sits directly adjacent to the northern boundary at the site. The document sets out that the netting would be managed and maintained by a management company, and additionally details how routine inspection would ensure that any repair works are to be undertaken.

The information submitted pursuant to condition 10 is acceptable and is hereby approved. Please be aware that the approved document would come into force upon the installation of the approved ball-stop netting.

**Dated: 25/11/2024**

