

Kirklees Metropolitan Council

By email only

Date 27 June 2024

Dear Sir/Madam,

**Town & Country Planning (Development Management Procedure) (England)
Order 2015**

Application Reference: 2024/90745

Site: 11 & 13, BOWNESS DRIVE, DALTON, HUDDERSFIELD, HD5 9PY

**Proposal: Erection of new garage to no. 11 and no.13 Bowness Drive, including
demolition of existing garages.**

Sport England Reference: PA/24/Y/KK/67859

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (NPPF), particularly Paragraphs 103 and 193, and Sport England's Playing Fields Policy exceptions which are appended to this letter.

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

The views of the National Governing Bodies for Sport

As part of the assessment of this consultation, Sport England has sought the views of the England Cricket Board (ECB). The ECB act as Sport England's technical advisors in respect of their sport and their sport facilities and advise on ball strike.

The comments of the ECB, have been summarised as:

- *The proposal will be at risk of ball strike.*
- *The risk will be no different to the current situation.*
- *Given it is a like for like reprovion we have no objection.*

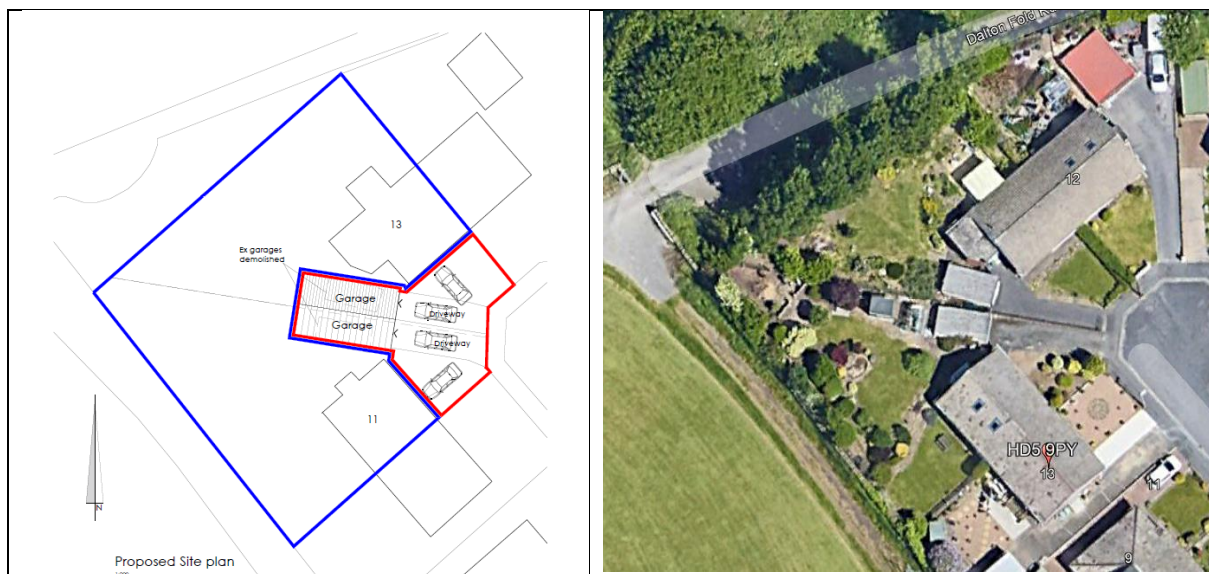
Sport England – statutory consultee role and policy

As can be seen from the comments of the ECB above, acting as Sport England’s technical advisors in respect of ball strike, the proposal is at risk of ball strike from cricket balls.

Such ball strikes have the potential to constitute a nuisance under the Environmental Health legislation and as such could prejudice the sporting use of the playing field. This was the case in *Miller –v– Jackson* [1977] QB 966 where cricket balls from a village green kept going into a nearby house.

However, although the proposal is at risk of ball strike, it is noted that the proposal is for the demolition and rebuild of existing garages. The ECB have commented that as it is a like for like reprovion, they have no objection.

The plans of the proposal show that the garages will replace existing garages:



The requirement to address any ball strike issues is set out under paragraph 193 of the NPPF which states:

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new

development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

The above paragraph is clear that there needs to be an '*agent of change*' in order for the applicant to provide suitable mitigation.

In the case of this planning application, the proposal is a replacement. Although the proposal would be at risk of ball strike, in this particular case, there is no agent of change as the new proposal reflects the existing situation.

As such, given the above, there is no requirement for the applicant to provide any ball strike/stop mitigation and ECB have confirmed this in their comments where they state that they have no objection.

Sport England's position

Given the above, Sport England raises **no objection** to the application because it is considered to accord Exception E3 of our Playing Fields Policy and paragraph 103 and 187 of the NPPF.

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

Yours sincerely,

Richard Fordham BA(Hons), DipTP, MTP, MRTPI, AIPROW
Planning Manager

Annex

The Five Exceptions to Sport England's Playing Fields Policy

Exception 1

A robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

Exception 2

The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.

Exception 3

The proposed development affects only land incapable of forming part of a playing pitch and does not:

- reduce the size of any playing pitch;
- result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);
- reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;
- result in the loss of other sporting provision or ancillary facilities on the site; or
- prejudice the use of any remaining areas of playing field on the site.

Exception 4

The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.

Exception 5

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

The full 'Playing Fields Policy and Guidance Document' is available to view at:

www.sportengland.org/playingfieldspolicy