County Planning
County Hall
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**APPLICATION NUMBER: WSCC/023/24**

**REGULATION 3 (S73)**

**TOWN AND COUNTRY PLANNING ACT 1990 (APPLICATION UNDER SECTION 73)**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

To: Oliver Pennington,
Surfacing Standards Ltd,
Office 2,
Empingham House,
Ayston Road,
Uppingham,
LE15 9NY

In pursuance of their powers under the above mentioned Act and Orders, West Sussex County Council hereby notify you that they **PERMIT** the following development:

**Creation of a 3G Artificial Grass Pitch (AGP) with perimeter fencing, floodlighting, macadam hardstanding area, storage container, timber acoustic barrier fence & macadam access pathway (Variation of Condition 20 (Safety Netting Installation) of Planning Permission WSCC/047/21 to allow the concurrent use of the AGP alongside junior cricket) at The Forest School, Comptons Lane, Horsham, West Sussex, RH13 5NT**

to be carried out in accordance with your application and plans (as modified by the under-mentioned conditions) submitted to this Council on 21/08/2024 and subject to the conditions specified hereunder:

## Conditions

### Approved Plans

1. The development shall not take place other than in accordance with the approved plans:

   - Arboricultural Method Statement – (dated January 2022);
   - Bat Tree Assessment – (dated 21/10/2021);
   - Construction Management Plan: Temporary Access – (ref. CS338-01, dated 01/03/2024);
   - Construction Method Statement – (dated 1st March 2024);
   - Community Use Agreement – (dated 05/02/2025);
   - Drainage Verification Report – (dated 16/08/2024);

Date: 30/05/2025 Signed: **Michael Elkington**, Head of Planning Services

**IT IS IMPORTANT THAT YOU READ THE NOTES IN APPENDIX A**

- Ducting Plan – (ref. SS2890_09, rev. 02, dated 02/03/2022);
- Educational Supporting Statement – (dated September 2022);
- External Soft Works Specification – (ref. 5203950-ATK-XX-XX-SP-L-0001, rev. P03, dated 25/03/2024);
- FA Pitch Register – (ref. SUS064, dated 15/08/2024;
- Floodlighting Performance Report – (dated 19/10/2021);
- Football Turf Field Test Report – (ref. 24462/7084s, dated 08/08/2024);
- Landscape General Arrangement – (ref. 5203950-ATK-XX-XX-DR-L-001, rev. 02, dated 21/04/2023);
- Landscape Sections – (ref. 5203950-ATK-XX-XX-DR-L-001, rev. 02, dated 21/04/2023);
- LED Data Sheet – (ref. 20201001);
- Noise Impact Assessment – (ref. 8799/DO, rev. 06, dated 17/04/2023);
- PEA and Landscape Schedule for Bats – (dated September 2021);
- Planning Condition 6 (Written Scheme of Archaeological Investigation) Discharge Letter (dated 07/02/2024);
- Proposed AGP Layout – (ref. SS2890_04, rev. 01, dated 07/12/2021);
- Proposed Construction Access – (ref. SS2890_10, rev. 01, dated 02/03/2022);
- Proposed Drainage – (ref. SS2890_06, rev. 04, dated 04/01/2022);
- Proposed Elevations – (ref. SS2890_08, rev. 02, dated 19/01/2022);
- Proposed Floodlighting – (ref. SS2890_05, rev. 05, dated 19/01/2022);
- Proposed Sections – (ref. 5203950-ATK-XX-XX-DR-L-002, rev. 02, dated 21/04/2023);
- Southern Water Pre-Capacity Check – (dated 03/08/2021);
- Site Location Plan – (ref. SS2890, rev. 03);
- Tree Constraints Plan – (ref. TCP_02, dated December 2022);
- Tree Schedule – (dated December 2021), and;

- As-Built Water Neutrality Report – (ref. 22821-HYD-XX-XX-RP-5002-P2, rev.02, dated 07/05/2025, received 20/05/2025).

and other details submitted with the application including the Design & Access Statement (rev. 2, dated 02/03/2022) save as varied by the conditions hereafter.

*Reason: To secure a satisfactory development.*

**Landscape Maintenance Plan**

2. The management and maintenance of landscaping associated with the works herby permitted shall be conducted in accordance with the approved plans (Landscape Plan: ref. 5203950-ATK-XX-XX-DR-L-001_P02 and External Soft Works Plan: ref. 5203950-ATK-XX-XX-SP-L-0001_P03). Any seeding which fails, plants which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season in accordance with the approved details. The approved plans shall be implemented and adhered to throughout, unless otherwise agreed in writing by the County Planning Authority.

*Reason: To ensure the proposed landscaping is maintained in the interest of the environment and residential amenity.*

**Community Use Agreement**

3. The development hereby permitted shall be used in accordance with the approved Community Use Agreement (Community Use Agreement, dated 05/02/2025). The development shall not be used otherwise than in strict compliance with the approved agreement.

*Reason: To secure well-managed safe community access to the sports facility/facilities and to ensure sufficient benefit to the development of sport.*

**Flood Lighting**

4. The development hereby permitted shall be used in accordance with the details contained within the approved Flood Lighting and Flood Lighting Verification Reports (Floodlighting Performance Report, Ref. SSL2890, Dated 10/07/2024; Floodlighting As-Built, Ref. FS/HOR/VS-CG/001, dated August 2024; Lighting Verification Report, dated 16/10/2024, and; Pitch Floodlighting Commissioning Data, Ref. SLD100-OMM.1, Rev. 01, dated 17/10/2024). The approved details, operational practices and attenuation measures shall thereafter be permanently retained and maintained in working order in accordance with the ILP document "Guidance Notes for the Reduction of Obtrusive Light GN01-21, for the duration of the use and their operation.

The floodlighting hereby permitted shall at all times be directed onto the MUGA and to no other part of the school site.

*Reason: To safeguard the amenity of adjoining residential properties.*

**Pitch Management and Maintenance Scheme**

5. The development hereby permitted shall be managed and maintained in accordance with the approved Management and Maintenance Scheme for the facility (3G Artificial Grass Pitch Management and Maintenance Scheme, Rev. 2, dated 20/11/2024). The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the MUGA.

*Reason: To ensure that a new facility is capable of being managed and maintained to deliver a facility that is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport.*

**Water Neutrality Measures**

6. The development hereby permitted shall be undertaken in full accordance with the As-Built Water Neutrality Strategy (Forest School 3G Pitch: As-Built Water Neutrality Report, ref. 22821-HYD-XX-XX-RP-5002-P2, rev.02, dated 07/05/2025, received 20/05/2025). For the avoidance of doubt, all community/third party users of the MUGA shall only be permitted to use bathroom and changing facilities located in Block A (as shown in Appendix E of the approved As-Built Water Neutrality Report). The installed measures shall be retained and operated at all times and maintained in accordance with the Management and Maintenance Scheme as detailed within the approved As-Built Water Neutrality Report.

*Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SAC, SPA and Ramsar sites.*

**Noise Management Plan**

7. The development hereby approved shall be used in accordance with the approved noise management plans (Noise Management Plan, Ref. SS2890, and; Sport Fence Noise Reduction Report, dated 04/16/2014). The measures set out in the approved plan shall be complied with in full, with effect from commencement of use of the MUGA.

*Reason: To protect neighbouring residential amenity.*

**Infill Containment Measures**

8. The measures approved within the submitted Infill Migration Control Site Plan (submitted 28/08/2024; Infill Mitigation Strategy) shall be implemented in full and adhered to at all times.

*Reason: To protect the local environment.*

**Protection of Retained Trees**

9. (a) No retained tree, as identified on the Tree Constraints Plan (ref. TCP_02) shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned without the prior written approval of the County Planning Authority. Any pruning work approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations.

(b) No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until all tree protection measures have been implemented in accordance with the Arboricultural Method Statement. Such measures shall be adopted until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any identified construction exclusion zones and the ground levels within those areas shall not be altered, nor shall any excavation be made, except in full accordance with the mitigation measures identified in the Arboricultural Method Statement, save for any variation thereto that may be agreed in writing by the County Planning Authority.

*Reason: To protect existing trees in the interests of amenity and of the environment of the development.*

**Hours of Use**

10. The MUGA hereby approved shall only be used between the hours of:

- 09:00 to 21:00 Monday to Friday (year-round);
- 09:00 to 18:00 on Saturday (May-September);
- 09:00 to 19:00 on Saturday (October-April); and
- 10:00 to 16:00 on Sundays and Bank Holidays (year-round).

Outside these periods, only maintenance activities shall take place on the MUGA.

*Reason: To protect residential amenity.*

**Hours of Operation - Floodlights**

11. The floodlighting and path illumination lighting hereby approved shall only be used between the hours:

- 09:00 to 21:15 Monday to Friday (year-round);
- 09:00 to 18:15 on Saturday (May-September);
- 09:00 to 19:15 on Saturday (October-April); and,
- 10:00 to 16:15 on Sundays and Bank Holidays (year-round).

Floodlighting and path illumination shall remain turned off outside of these hours unless it is required for an emergency situation.

*Reason: To enable the safe exit of users form the MUGA and to protect residential amenity.*

**Cricket Wicket Specification**

12. The Non-Turf Cricket Pitch (NTP) hereby permitted shall not be constructed other than in accordance with the ECBs Technical Design Guidance TS6 contained in

ECB Guidance Notes for the provision and Installation of Non-Turf Cricket Pitches and Net Cage Facilities 2017.

*Reason: To ensure the development is fit for purpose and sustainable.*

**Safety Netting Installation**

13. At no time shall the MUGA be used concurrently with the cricket NTP for adult cricket use until the ball strike protection netting identified as being necessary in the Labosport Boundary Risk Assessment ref: LSUK.21-0608_REC to protect the users of the MUGA has first been installed, in accordance with any relevant planning permission, and thereafter the protection netting shall be permanently retained and maintained in good condition as specified.

*Reason: To mitigate the risk of cricket ball strike so as to ensure the safety of users of the MUGA and so as not to prejudice the ongoing use of the NTP.*

**Sports Use Only**

14. Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 (England), as amended by The Town and Country Planning (Use Classes) (amendment) Regulations (or any order amending, revoking or re-enacting that order), MUGA shall not be used other than for sport.

*Reason: To protect the sports facility from a change of use to a non-sporting use that would be inappropriate to justify the loss of the grass playing field land.*

## Informative(s)

A. In accordance with the National Planning Policy Framework, the County Planning Authority has approached the determination of this application in a positive way, and has worked proactively with the applicant by:

- Discussing issues of concern as early as possible, including those raised by consultees and third parties; and
- Working with consultees.

As a result, the County Planning Authority has been able to recommend the grant of planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

B. Once details relating to the proposed temporary site access have been submitted to and approved by the County Planning Authority, the applicant is advised to contact WSCC Highways to discuss the relevant licences required to enable works to the public highway, as per the comments made by the WSCC Highways Officer.

C. The applicant's attention is drawn to the ECB Guidance Notes for the Provision and Installation of Non-Turf Cricket Pitches and Net Cage Facilities as per the advice provided within the consultation response from Sport England.

D. Biodiversity Net Gain - Based on the information provided, this permission is one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemptions or transitional arrangements are considered to apply:

- The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

This information is only intended as a summary of the reasons for the grant of planning permission. For further details on the decision, please see the report by contacting County Planning at West Sussex County Council or visiting the website at www.westsussex.gov.uk/planning.

**APPENDIX A: TOWN AND COUNTRY PLANNING ACT 1990**

YOUR ATTENTION IS DIRECTED TO THE FOLLOWING NOTES.

THEY ARE FOR INFORMATION ONLY AND DO NOT PRETEND TO SET OUT THE WHOLE OF THE LAW ON THE SUBJECT. IT IS RECOMMENDED THAT YOU CONSULT A SOLICITOR IF YOU ARE IN ANY DOUBT.

**1 Appeals to the Secretary of State**

(a) If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

(b) If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get online at https://www.gov.uk/appeal-planning-decision or by writing to the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN.

(c) The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

(d) The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

(e) In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

**2 Purchase Notices**

(a) If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

(b) In these circumstances, the owner may serve a purchase notice on the District Council in whose area the land is situated. This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town and Country Planning Act 1990.

**3 Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be West Sussex County Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

*Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.*

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates[1] was granted before 12 February 2024; or

(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

(i) the application for planning permission was made before 2 April 2024;

(ii) planning permission is granted which has effect before 2 April 2024; or

(iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

(i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

(ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

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[1] "Original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

4.5 Self and Custom Build Development, meaning development which:

(i) consists of no more than 9 dwellings;

(ii) is carried out on a site which has an area no larger than 0.5 hectares; and

(iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high-speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High-Speed Rail (Preparation) Act 2013.

*Irreplaceable habitat*

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

*The effect of section 73D of the Town and Country Planning Act 1990*

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

*The effect of Paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990*

If the permission which has been granted has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).