

Calderdale Local Plan

LP1036 – FUTURE USE OF ADJOINING CRICKET GROUND

Calderdale Metropolitan Borough Council

July 2021



1. Introduction

1.1 The Stage 2 Hearings of the Examination of the Local Plan concluded on Friday 4th December 2020. The Council is now working through the tasks and modifications resulting from the hearings. These item tasks can be found in [CC85 – Stage 2 Draft Task List](#).

2. Background

2.1 LP1036 is an Additional Housing Allocation, which was recommended to be brought forward during the [Calderdale Local Plan - Housing Requirement Update and Potential Supply](#) consultation which ran from 10th January to 24th February 2020. The site was included within the [Local Plan Initial Draft](#) (this ran from 4th August to 29th September 2017) which also included the cricket ground itself. However, based on comments from the Council's Conservation team (Heritage) and Open Space Officer, it was recommended that the cricket ground be removed from the allocation and the site boundary redrawn.

2.2 Allocation of the site (along with Land off Soaper Lane (LP1034), land at 30 Burned Road (LP1035) and land off Burned Road, Shelf (LP1037)) was discussed as part of the Matter 20, Northowram and Shelf Housing Allocations hearing session which was held in public on 25th November 2020. The Inspector raised the following matters in Item 6 of that session to include:

- Relationship between sites LP1034, LP1035 and LP1036 and whether LP1036 can be independently accessed;
- Proximity of cricket ground to LP1036;
- Evidence of mining history on the sites;
- Deletion of requirement relating to strong and defensible Green Belt boundary for LP1035 and LP1036, as set out in the Council's Hearing Statement; and
- Any other comments?

2.3 During the hearing session, the Inspector recommended the Council explore the future use of the adjoining cricket ground to LP1036 with the owner of the site (CC85 – Item 250). The Council has since contacted the site owner and Sport England with a view to exploring the above.

2.4 LP1036 and the cricket ground are both owned by the EI Group Ltd. JWPC Chartered Town Planners on behalf of the EI Group Ltd have made representations at different stages of the Plan who consider that the cricket ground should be part of the housing allocation. The owners are prepared to commit to improving another cricket facility in the locality but do not feel that it is appropriate or sound to provide full details of this 'migration' package at this stage. They feel that a commitment in principle would offset Shelf cricket ground being allocated for housing with full details of any 'migration' package to be provided at planning application stage (See Appendix 3).

3. Future Use of Adjoining Cricket Ground

3.1 As set out in the site assessment report, the reasons the cricket ground was excluded from LP1036 was due to the potential impact on both designated and non-designated heritage assets and the loss of open space. In order for the Council to have a better understanding of the potential heritage impacts, a Heritage Impact Assessment for LP1036 and the cricket ground was undertaken. It demonstrates that there would be little impact on the heritage assets and mitigation measures could be made to mitigate any impact the development of this site has. The HIA and Council's findings can

be found in 'CC116 – Substantive Historic Environment Matters Raised on Sites.' In terms of open space and the cricket ground, the Council consulted Sport England (see Appendix 1).

- 3.2 The lack of demand for the use of the land as a cricket pitch was discussed during the Matter 20 hearing session and the fact that the ground was currently not used by a cricket club. The discussion explored the possibility that by not including the cricket ground in the development allocation the owner would not be bound to allow the site to be used for the purpose of playing cricket and it could be left unused for an indefinite period of time. Including the cricket pitch in the allocation could give the council additional control over its future use which could include its retention as a cricket pitch, the use of the site for alternative open spaces or even allow the site to be developed with compensatory open space provision. However, including the cricket pitch in the allocation without first agreeing a binding open space compensation package is not without risk and could give rise to open space loss to housing without satisfactory compensatory provision.
- 3.3 Contrary to the views of the land owner, currently none of the cricket pitch or ground are proposed to be allocated as part of new housing site LP1036. With this in mind, the Council consulted Sport England to obtain their views on including the cricket ground in the allocation for development. They concluded that:

The playing field needs to be replaced. The replacement and the cost of that would be a requirement that the Council would impose on the developer. Should the Council pursue allocation of the playing field (cricket ground) without an adequate mitigation package to replace that lost (including ancillary facilities) by equivalent or better provision in terms of quantity and quality in a suitable location, then Sport England would object to the allocation. If the Council wish to pursue allocation, then the mitigation package, i.e. the replacement playing field site (and supporting ancillary facilities) should be allocated as part of the Local Plan and Sport England would welcome continuing to be part of that conversation. Were a decision taken to allocate the site and not plan for replacement Sport England would object again at the planning application stage when an application is submitted. The matter should not be left to the planning application stage.

- 3.4 Whilst Sport England have no objection to the loss of the cricket ground provided a replacement of equivalent or better quantity and quality is provided in a suitable location, they are clear that any such mitigation package should be included as part of the allocation (See Appendix 2).

4. Conclusion

- 4.1 The Council concur with the opinion of Sport England in that they are not against the inclusion of the cricket ground in new housing site LP1036, but would want a substantive amount of the detail of any mitigation package to be submitted to and agreed by the Council prior to allocation. The existing cricket facilities are not considered to be surplus to requirements and the provision of any mitigation package is not considered to be a straight forward undertaking due to cost and complexity in provision of suitable replacement facilities. It is possible that unforeseen issues exist that will prevent appropriate compensatory provision and therefore a mitigation package should be agreed prior to any loss on this scale. The land owner has stated that Local Plan policy GN6 would ensure that compensatory provision of a suitable quantity and quality would be provided and that further safeguards of site specific conditions could require suitable compensatory provision. Whilst policy

GN6 and the addition of site specific conditions to any allocation would offer some protection, the Council would wish to see that suitable compensatory provision for a loss on this scale is feasible before allocating the cricket ground for housing.

- 4.2 Notwithstanding the above, if the Inspector deemed the inclusion of the cricket ground in new housing site LP1036 to be sound and policy GN6 and site specific conditions to offer suitable protection to ensure this loss was appropriately compensated for, then the Council would be agreeable in proceeding on this basis.

Appendix 1 – Council Consultation with Sport England - 8th March 2021

As you will recall, Sport England provided comments last year on the Stage 2 MIQs for the Calderdale Local Plan. In particular, comments were provided regarding sites LP1034, LP1035, LP1036 and LP1037 as below:

Matter 20 – Northowram and Shelf housing allocations

- LP1034 – Land off Soaper Lane, Shelf
- LP1035 – Land at 30 Burned Road, Shelf
- LP1036 – Land north of Shelf Cricket Ground, Carr House Lane, Shelf
- LP1037 – Land off Burned Road, Shelf

Question c) What is site LP1036 currently used for? Does it form part of the cricket club land? If so, what open space value does it have, what is the view of Sport England, and is the proposal consistent with paragraph 74 in the NPPF?

Response:

Site LP1036 lies to the north of the Shelf Cricket Club. The cricket club is listed on Active Places Power (www.activeplacespower.com) as an operational grass cricket pitch with changing facilities (refurbished 2012). Any allocation of a site close to a cricket pitch can raise issues of risk of ball strike from balls leaving the field of play.

In this instance the site lies very close to the wicket and any allocation of the site to the north (LP1036) must take the risk of ball strike into consideration. As a minimum requirement any applications for development must undertake a ball strike risk assessment and as a minimum consider recreational cricket and ball speeds of up to 40 metres per second. At this site the wicket is orientated in a north-south direction, although a possible east/west variation of 55^o from the point of north is also acceptable in accordance with ECB guidance, therefore any ball strike risk assessment should also consider orientation at 55^o as well. Any mitigation package that the ball strike risk assessment advises should be built into the scheme by the developer; and be constructed and maintained in perpetuity at the developer's expense. This should be built into the policy for this site.

The relationship between LP1036 and the playing field are not clear. Were the site or part of the site to include part of the playing field then the part lost would need to be replaced in accordance with paragraph 74 of the NPPF 2012. The Town and Country Planning (Development Management Procedure) (England) Order 2015 ("the 2015 Order") defines a playing field as 'the whole of a site which encompasses at least one playing pitch'. This definition is also provided within the glossary to the Government's National Planning Policy Framework. The definition refers to the whole of a site and therefore does not just cover land which is currently laid out as pitches. It also does not differentiate between different types of ownership e.g. public, private or educational ownership. The evidence submitted on this allocation does not make it clear whether the site is part of the 'whole of the site that encompasses at least one playing pitch'; and if that is the case then the site would need to be replaced as part of any allocation and bringing this site forward for development.

During the stage 2 hearings, the Inspector asked the Council to undertake the following task:

LP1036 – The Council should enter into a conversation with the owners of the cricket ground regarding their future intentions in order to confirm the Council's view whether the cricket ground should be included in the development site and to resolve the access issue.

The lack of demand for the use of the land as a cricket pitch was discussed during the Matter 20 hearing session and the fact that the ground was currently not used by a cricket club (covid restrictions notwithstanding). Currently none of the cricket pitch or ground are allocated as part of new housing site LP1036. With this in mind, the Council would be interested to know what Sport England's view would be of including the cricket ground in the allocation for development (along the lines indicated on the attached pdf map). The discussion explored the possibility that by not including the cricket ground in the development allocation the owner would not be bound to allow the site to be used for the purpose of playing cricket and it could be left unused for an indefinite period of time. Including the cricket pitch in the allocation could give the council additional control over its future use which could include its retention as a cricket pitch, the use of the site for alternative open spaces or even allow the site to be developed with compensatory open space provision.

Before the Council provides a view on the above, would it be possible for Sport England to provide a view?

Appendix 2 – Consultation Response from Sport England - 11th March 2021

Thank you for your email asking for further advice about LP1036 – Land north of Shelf Cricket Ground, Carr House Lane, Shelf and extending the area of the allocation following up on the Inspectors comments at the Examination. My previous response advised that site LP1036 lies adjacent to Shelf Cricket Club. The cricket club is listed on Active Places Power (www.activeplacespower.com) as an operational grass cricket pitch with changing facilities (refurbished 2012). The response also advised that any allocation of a site close to a cricket pitch can raise issues of risk of ball strike from balls leaving the field of play; and that because the this site (LP1036) was very close any allocation of the site to the north (LP1036) must take the risk of ball strike into consideration. Indeed any site within 80 metres of a cricket wicket is at risk from ball strike and ball strike must be considered as part of the planning process. Any mitigation package that a ball strike risk assessment advised should be built into the scheme by the developer; and be constructed and maintained in perpetuity at the developer's expense. The promoter of the site could have provided a ball strike risk assessment report as part of bringing the site forward as a possible site for development. It is good practice for the requirement for mitigation to be built into any policy for a site in this position. Furthermore, Sport England advised that if any part of the allocation falls within the playing field then the part lost would need to be replaced in accordance with paragraph 74 of the NPPF 2012.

The Town and Country Planning (Development Management Procedure) (England) Order 2015 (“the 2015 Order”) defines a playing field as ‘the whole of a site which encompasses at least one playing pitch’. This definition is also provided within the glossary to the Government’s National Planning Policy Framework. The definition refers to the whole of a site and therefore does not just cover land which is currently laid out as pitches. It also does not differentiate between different types of ownership e.g. public, private or educational ownership. The cricket ground meets the definition of a playing field. The evidence submitted does not make it clear whether LP1036 includes part of the playing field, i.e. ‘whole of the site that encompasses at least one playing pitch’. If it does then the playing field lost would need to be replaced as part of any allocation and bringing this site forward for development (and subsequent planning application). There doesn’t appear to be a boundary separating different portions of this site on the map provided therefore the playing field site could be approximately 2 hectares in area.

You mention lack of demand being discussed at the hearing, the fact that a site is not used does not show lack of demand. A site can stop being used for a variety of reasons, for example lack of maintenance, poor quality, lack of facilities, lack of players or denial of access by the landowner; and the use could stop voluntarily by the users or forcibly by the landowner. For example, were a landowner to deny access to would-be users it could force them to either to go elsewhere or stop playing sport on the site, in that situation that would not show a lack of demand; just that users did not have the permission of the landowner to use it. If a playing field site is unused for a period of time it’s use as a playing field does not cease, nor does it indicate that there is a lack of demand for pitch sport. There is no reason in law why a playing field has to be used actively all of the time, it’s active or inactive use can fluctuate, and can come and go back and forth over any period of time, and as can it be brought back into use for the same or for a different pitch sports as when it’s needed. The natural demand for pitches for different sports and different age groups can change

and fluctuate from as often as year to year. The Council should ensure that there is a supply of playing field sites to meet current and future demand.

In terms of understanding the needs for playing pitches, the Council's Playing Pitch Strategy (PPS) is the go-to document for the up to date position on the needs and demands for sports pitches for a variety of pitch sports. The assessment of needs and demands for pitches is one of the considerations in paragraph 74 of the NPPF and this brings in the evidence from Calderdale's PPS. Paragraph 74 of the 2012 NPPF states:

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

Therefore should the Council wish to include the playing field in the allocation for housing then it would need to meet the requirements of paragraph 74, the following 3 points demonstrate applying each bullet point as follows:

1. An assessment has been undertaken to show it is surplus to requirements – in this case the Calderdale PPS does not demonstrate that there are a surplus of pitches and it is not needed, so this point does not apply; and
2. The loss of playing field resulting from the development would need to be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, this would apply as there is no evidence to demonstrate (1) that the site is not needed, so replacement is triggered and needs to include the playing field and any ancillary facilities on the site such as changing pavilion, storage, artificial turf wickets, practice wickets or practice nets, car parking etc.; and
3. The development isn't for alternative sports and recreation provision, so this paragraph does not apply.

So to summarise, points 1 and 3 don't apply, point 2 applies in that the playing field would need to be replaced (including its ancillary supporting facilities) by equivalent or better provision in terms of quantity and quality in a suitable location as part of any scheme to develop the site. Sport England's Playing Fields Policy also requires the replacement to be subject to equivalent or better accessibility and management arrangements.

As well as the NPPF Sport England uses its own Playing Fields Policy and Guidance (consistent with the NPPF) to help it assess planning proposals. The Playing Fields Policy states:

“Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.”

The requirement to replace the playing field is set out in Exception E4 of our Playing Fields Policy and Guidance, Exception E4 states “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.”

A copy of Sport England’s Playing Fields Policy and Guidance document is available at the following link: https://sportengland-production-files.s3.eu-west-2.amazonaws.com/s3fs-public/2021-03/Playing%20Fields%20Policy%20and%20Guidance%20Document%20%5BAug%202018%20Update%5D.pdf?2ns.R0bLdfYvP_NFXVlvSgpNdJjt6M_M

Conclusion

The playing field needs to be replaced. The replacement and the cost of that would be a requirement that the Council would impose on the developer. Should the Council pursue allocation of the playing field (cricket ground) without an adequate mitigation package to replace that lost (including ancillary facilities) by equivalent or better provision in terms of quantity and quality in a suitable location, then Sport England would object to the allocation. If the Council wish to pursue allocation, then the mitigation package, i.e. the replacement playing field site (and supporting ancillary facilities) should be allocated as part of the Local Plan and Sport England would welcome continuing to be part of that conversation. Were a decision taken to allocate the site and not plan for replacement Sport England would object again at the planning application stage when an application is submitted. The matter should not be left to the planning application stage.

Appendix 3 – Email from Stuart Booth JWPC representing owners of LP1036 and Cricket Pitch - 23rd April 2021

The issue we seem to have is that Sport England will object to any proposed allocation that doesn't specifically define the mitigation package, which I suspect is a standard response. I presume they don't know the whole picture here, which is that we have the former users of the cricket pitch, **(Shelf Cricket Club)**, hoping for an investment from the development to go into their other facility in the village, which the Inspector pointed out could only really be delivered through allocation of this site if that was tied to the mitigation in policy. Leaving it to be only be dealt with by a planning application gives less certainty to all parties.

It does seem like everyone is saying there is a way to develop this site, provided the development helps to fund replacement facilities, but the merged club who no longer need this pitch understandably want to benefit from that mitigation. My client is happy to commit in principal to that, but it seems without the detail being bashed out first, Sport England would object. With discussions with the local cricket club and with Yorkshire Cricket about a specific mitigation/replacement package, which I presume in due course, and more appropriately during a planning application, Sport England could support this approach.

I note that Policy GN6 as proposed allows for development of open space, sport and recreation facilities where:

- An assessment has been undertaken which clearly shows the open space, buildings or land to be surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Did Sport England support this policy?

I suppose the main difference here is that we are actively looking to define this pitch as one that could be developed during the plan period, but still subject to satisfying Policy GN6. The difference is that an allocation for housing would provide some certainty to the landowner that development is possible, but also protection to the cricket club that their new merged facility would benefit from the development as mitigation to the loss of the pitch which they no longer need.

Sport England are a statutory consultee on any application to develop a cricket pitch, and it would not seem right or sound for a policy in the Plan to specify the exact details of mitigation, especially as the precise details of development will not be set by policy. It could though be agreed that a form of mitigation for the development would be in Shelf or directly benefit the club that previously played there.

We are been in discussions with Shelf CC and are aiming to meet with them and Yorkshire CC in the next week or so, but if in the meantime you could give us some indication of your support for this approach, ie. an allocation that specifically references Policy GN6 perhaps or alternative wording, that would help the process and we could then go back to Sport England with the whole picture.