

24/01905/REG3

Applicant Rushcliffe Borough Council

Location Bingham Arena, Mercia Court, Bingham

Proposal Variation of Condition 29 (Hours of use) for planning application 19/02914/FUL to amend opening time Monday to Friday from 6.30am to 6.00am

Ward Bingham North

THE SITE AND SURROUNDINGS

Details of the application can be found [here](#)

1. This application is referred to Planning Committee as the applicant is the Borough Council.
2. This application relates to the Bingham Arena leisure centre and community hall located on the eastern side of Chapel Lane and to the north of the railway line within a built-up area of the settlement of Bingham.
3. The site as a whole comprises the Arena which includes the leisure centre and community hall, the Bingham Enterprise Centre (a detached building located to the northern boundary) and a large car park.
4. Sites to the north and east are occupied by industrial units. Further east beyond the industrial units is a residential development. On the opposite side of Chapel Lane is a Lidl retail store and a car washing operation. To the south of the site, on the opposite side of the railway line, are residential properties. A level crossing over the railway line is adjacent to the south west corner of the site.

DETAILS OF THE PROPOSAL

5. This application seeks to vary condition 29 of the original planning permission (ref 19/02914/FUL) in relation to increasing the hours of opening by 30 minutes on Monday to Friday mornings.

6. The original wording of condition 29 reads

The leisure centre and community building hereby approved shall only be open for use by members of the public between the hours of 6.30am to 11pm Monday to Thurs, 6.30 am to 12 midnight Friday, 7am to 12 midnight Saturday and 7am to 9pm on Sundays and Bank Holidays.

7. The proposed revised wording would read:-

*The leisure centre and community building hereby approved shall only be open for use by members of the public between the hours of **6.00am** to 11pm Monday*

*to Thurs, **6.00am** to 12 midnight Friday, 7am to 12 midnight Saturday and 7am to 9pm on Sundays and Bank Holidays.*

SITE HISTORY

8. 19/02914/FUL – Planning permission was granted in April 2020 for the construction of new leisure centre with swimming pool and fitness suite, new community hall sharing entrance and common facilities with the leisure building, new separate office building, and new car park to serve these buildings. This was subject to a S106 agreement to secure funding for surface improvements to the unmanned level crossing.
9. A number of Discharge of Condition and non-material amendment applications have been determined on the site and the full site history can be found [here](#).

REPRESENTATIONS

Ward Councillor(s)

10. No comments have been received from Ward Councillors.

Town/Parish Council

11. Bingham Town Council – no objections are raised.

Statutory and Other Consultees

12. The Borough Council's Environmental Health Officer raises no objections on environmental health grounds.

Local Residents and the General Public

13. No comments received.

PLANNING POLICY

14. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy (LPP1) and the Local Plan Part 2: Land and Planning Policies (LPP2). Other material considerations include the National Planning Policy Framework (NPPF) (December 2024) and the National Planning Practice Guidance (the Guidance).

Relevant National Planning Policies and Guidance

15. The relevant policy considerations in the NPPF are:
 - Chapter 2 (Achieving sustainable development)
 - Chapter 8 (Promoting healthy and safe communities)

Full details of the NPPF can be found [here](#).

Relevant Local Planning Policies and Guidance

16. The relevant policies in the Local Plan Part 1: Core Strategy:-
 - Policy 1 (Presumption in Favour of Sustainable Development)
 - Policy 12 (Local Services and Healthy Lifestyles)
 - Policy 13 (Culture, Tourism and Sport)
17. Policies in the Local Plan Part 2: Land and Planning Policies:-
 - Policy 1 (Development Requirements)
 - Policy 31 (Sustainable Tourism and Leisure)
 - Policy 39 (Health Impacts of Development)
18. The full text of the policies in the LPP1 and LPP2, together with the supporting text, and the Residential Design Guide can be found in the Local Plan documents on the Council's website at: Planning Policy - Rushcliffe Borough Council [here](#).

APPRAISAL

19. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
20. Section 73 of the Town and Country Planning Act 1990 enables variations or removal of conditions to planning permissions already approved and is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. Section 73 provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission is requested. As such, the principle of the Bingham Arena and associated facilities approved in 2020 under planning permission 19/02194/FUL cannot be revisited as part of this application. The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged. Taking this into account whilst the application has defined which condition is sought to be varied, the Local Planning Authority has the power to vary or remove other conditions if minded to grant a new planning consent.
21. The main issues in the considerations of the application are the principle of the proposed revised opening hours and whether there would be any impact upon the amenity of neighbouring properties and the wider area.

Principle of development

22. The overarching Policy 1 of LPP1 reinforces that a positive and proactive

approach to decision making should be had which reflects the presumption in favour of sustainable development contained in the NPPF. Policy 12 of LPP1 sub paragraph e) sets out that new community facilities should be in locations accessible by a range of sustainable transport modes.

23. Chapter 8, Paragraph 96 of the NPPF (2024) sets out that planning policies decisions should aim to achieve healthy, inclusive and safe places which.... c) enable and support healthy lifestyles..."
24. Policies 12 and 13 of the LPP1 provide support the provision of improved community facilities and sporting facilities.
25. Policy of LPP2 seeks to maximise the potential of leisure within the Borough and increase opportunities through.... b) the enhancement of existing leisure facilities
26. The Bingham Arena is in a sustainable location providing a popular leisure facility promoting a healthy lifestyle within the Borough The proposed increase in opening hours on a Monday to Friday by 30 minutes in the morning although modest would enhance the existing leisure facility and customer access to the leisure centre facilities by providing earlier opening hours for visitors wishing to use the facilities early in the morning.
27. Taking the above into account, it is considered that the principle of the proposal meets the criteria set out in the Chapter 8 of the NPPF (2024) and Policies 12 and 13 of LPP1 and Policies 31 and 39 of the LPP2 and is therefore is acceptable subject to the following material considerations:-

Amenity

28. Policy 10 of LPP1 and Policy 1 of LPP2 requires that new development proposals be assessed in terms of their impact on the amenity of occupiers of proposed development and nearby residents. Policy 31 of LPP2 requires that the enhancement of leisure facilities should not be detrimental to the surrounding area.
29. Taking account of the location of the Arena within an area of adjacent commercial units, adjacent to the railway line and a busy main road leading into Bingham Town Centre, together with the separation distances from the nearest residential properties to the south and north west, it is considered that the proposed increase in the opening hours of the Arena from 6.30am to 6.00am on Monday to Friday mornings would be considered to be so modest such that it would not result in any significantly increased levels of activity to result in adverse harm to the amenities of the neighbouring units and the nearest residential property.
30. Although the building has glazed elevations it is not considered that the lighting for the building required from the earlier opening hours would have any significantly greater impact on the surrounding units and predominantly commercial area than currently exists during hours of darkness.
31. For the reasons set out above it is not considered that the proposal would result

in significant harm to the amenity of neighbouring properties or the wider area The proposal therefore accords with and Policy 10 of the LPP1 and Policy 1 and Policy 31 of the LPP2.

Other Matters

Highway safety and parking

32. The large car park serving the Arena site is managed by the operator and the proposed increased opening hours would not be considered to result in any impact on the availability of parking at the earlier of time of 6.00am.

Character and appearance

33. No external alterations are proposed to the building. As such the proposal would not result in any impact on the character and appearance of the building.

Biodiversity Net Gain

34. Based on the information on the date of the original planning permission to which this section 73 planning permission relates, the Planning Authority considers that biodiversity net gain does not apply (original permission pre-dates 12 February 2024).

CONCLUSION

35. It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration.
36. In respect of the matters specifically under consideration the variation of condition 29 of planning permission 19/02914/FUL to amend the opening hours of the Arena from 6.30 am to 6.00am Mondays to Friday is considered acceptable for the reasons set out above. Previously imposed conditions have been updated to reflect the details submitted in approved discharge of condition applications and subsequent non-material amendment applications and to reflect changes in planning legislation.
37. It is not considered that the proposed variation would result in any adverse harm to the amenity of the occupiers of neighbouring or nearby properties.
38. It is therefore considered that the granting of the planning permission would fully accord with the objectives of the relevant planning policies set out in the National Planning Policy Framework, LPP1 and LPP2. It is therefore recommended that planning permission is granted for the proposal subject to the conditions set out below:-

RECOMMENDATION

It is **RECOMMENDED** that planning permission be granted subject to the following condition(s):-

1. The development hereby permitted shall be undertaken in accordance with following approved plans:-

Site Location Plan (Revised) J4285-08-01-P3

Design and Access Statement J4285(08) 001

**Schedule of Planning drawings and documents as set out Rev C06 March 2020
Revised elevations N and E elevation 23/00097/NMA**

[For the avoidance of doubt and to ensure a satisfactory development in accordance with the aims of Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.]

2. The development shall be retained in accordance with the details submitted in relation to the following approved on the 8th February 2021 under 21/00174/DISCON

- details of finished ground and floor levels in relation to an existing datum point, existing site levels and adjoining land

- details of materials to the external elevations of the building – revised elevation plans for 23/00097/NMA

- bin storage facilities;

- details of the proposed substation and its screening

- Sections and cross sections of the site showing the relationship of the proposed development to adjoining land and premises;

- Details of connectivity to the public bridleway no.26 at the unmanned railway crossing to include detail and design.

- Details of all external plant and associated screening to accord with the information submitted in the Environoise noise Assessment V2

[To ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy. This condition is pre commencement to ensure details are acceptable prior to work commencing on site].

3. The scheme for the provision of electric vehicle charging points to serve the site as shown on drg. no J2458-YMD-00-DR-A-1001 Rev C2 deposited on the 12th August 2021 and approved under 21/02343/NMA shall be retained for the lifetime of the development.

[To promote sustainable travel in accordance with the aims of Policy 14 of the Local Plan Part 1 Rushcliffe Core Strategy. This is a pre commencement condition to ensure that the car parking area is designed and constructed to allow for the provision of such infrastructure].

4. The development shall be retained in accordance with the Biodiversity Enhancement Plan approved under 24/02049/DISCON on the 17th September 2021.

[To ensure that the proposed development contributes to the conservation and enhancement of biodiversity within the site and for the wider area in accordance with the NPPF and Policy 17 of the Rushcliffe Local Plan Part 1: Core Strategy].

- 5. The development shall be retained in with the accordance hard and soft landscaping schemes shown on drawing numbers Hosta 200-HOSTA-XX-GF-DR-L-004-S4-P03.00 and 200-HOSTA-XX-GF-DR-L-0003 REV B and 200=HOSTA-XX-GF-DR-L-002 REV E and details approved under 22/00149/DISCON on the 22nd June 2022 and 18th July 2022. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.**

[To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area in accordance with the aims of Policy 16 (Green Infrastructure, landscape, Parks and Open Space) of the Rushcliffe Local Plan Part 1 Core Strategy].

- 6. The parking/turning/servicing areas implemented in accordance with the approved plans shall be maintained for the life of the development and shall not be used for any purpose other than the parking/turning/loading and unloading of vehicles.**

[To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area, in the interests of highway safety and to ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

- 7. The approved Car Park Management Plan Revised Document F approved under 22/00149/DISCON on the 18th June 22 shall be adhered to for the lifetime of the development.**

[To ensure the car parking provision is managed appropriately and is adequate for the needs of the development in the interests of highway safety to ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

- 8. Within 3 months of this permission the owner or the occupier(s) of the buildings on the site shall appoint and thereafter continue to employ or engage a travel plan coordinator who shall be responsible for the implementation, delivery, monitoring and promotion of the sustainable transport initiatives set out in the Framework Travel Plan and whose details shall be provided and continue to be provided thereafter to the Local Planning Authority.**

[To promote sustainable travel in accordance with the aims of Policy 14 of the Rushcliffe Local Plan Part 1: Core Strategy].

- 9. The travel plan coordinator for that building shall, within 6 months of engagement produce or procure a Detailed Travel Plan that sets out final targets with respect the number of vehicles using the site and the adoption of measures to reduce single occupancy car travel consistent with the Interim Travel Plan to be approved by the Local Planning Authority. The Travel Plan**

shall be implemented in accordance with the approved timetable and be updated consistent with future travel initiatives including implementation dates to the satisfaction of the Local Planning Authority.

[To promote sustainable travel in accordance with the aims of Policy 14 of the Rushcliffe Local Plan Part 1: Core Strategy]

10. The travel plan coordinator shall submit reports in accordance with the Standard Assessment Methodology (SAM) or similar to be approved by the Local Planning Authority in accordance with the Travel Plan monitoring periods. The monitoring reports submitted to the Local Planning Authority shall summarise the data collected over the monitoring period and propose revised initiatives and measures where travel plan targets are not being met, including implementation dates to be approved in writing by the Local Planning Authority.

[To promote sustainable travel in accordance with the aims of Policy 14 of the Rushcliffe Local Plan Part 1: Core Strategy].

11. The lighting approved under 22/00149/DISCON on the 16th June 2022 shall thereafter be retained in accordance with the approved details.

[To ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy]

12. All sound attenuation measures detailed in the noise assessment supplied (Environoise Consulting Ltd noise assessment ref 21331R01aSWmdw dated 27/2/20) and approved under 22/01049/DISCON on the 24th March 2022, with the exception of the acoustic fencing to the Chapel Lane frontage, be permanently retained.

[To ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy]

13. In relation to the use of the community hall element of the scheme, the noise management plan submitted on the 25th January 2022 and approved under 22/00149/DISCON shall be retained in accordance with the approved details and mitigation measures for the lifetime of the development.

[To protect the amenity of the occupiers of the residential properties adjacent to the site and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

14. When live or amplified music is being played in the community building all external doors and windows shall remain closed and shall only be opened in an emergency or for access and egress.

[To protect the amenity of the occupiers of the residential properties adjacent to the site and to comply with policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

15. The proposed extract ventilation system for the cooking area approved on the 24th March under 22/00149/DISCON shall be maintained and operated in accordance with the approved details for the lifetime of the development.

[To ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

16. The proposed pedestrian/cycle link from Chapel Lane to the public right of way to the east of the site adjacent to the unmanned level crossing which has been surfaced and lit in accordance with details approved under 21/00174/DISCON shall remain available for such purposes.

[To promote sustainable travel in accordance with the aims of Policy 14 of the Rushcliffe Local Plan Part 1: Core Strategy].

17. The leisure centre and community building hereby approved shall only be open for use by members of the public between the hours of 6.00am to 11pm Monday to Thurs, 6.00 am to 12 midnight Friday, 7am to 12 midnight Saturday and 7am to 9pm on Sundays and Bank Holidays.

[In the interests of residential amenity and to ensure a satisfactory development in accordance with the aims of Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

18. The proposed office building shall only be used for purposes falling within Class E(g)(i) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose within Class E.

[For the avoidance of any doubt and to ensure accordance with Policy 15 of Local Plan Part 2 Land and Planning Policies].

Note:-

The application was not the subject of pre-application discussions. The scheme however is considered acceptable and no discussions or negotiations with the applicant or agent were considered necessary.

Having regard to the above and having taken into account matters raised there are no other material considerations which are of significant weight in reaching a decision on this application.

NOTES TO APPLICANT

Biodiversity Net- Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74- 003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>. As this application relates to a S73 application relating to an application originally determined before the regulations came into force the mandatory biodiversity gain requirement does not apply.