

Perth and Kinross Council
Development Management Committee – 16th November 2016
Report of Handling by Development Quality Manager

**Variation of condition 2 (hours of operation of floodlights) of permission
11/01669/FLL (formation of an all-weather sports pitch and associated
infrastructure) on land at Seven Acres, Newhouse Road, Perth**

Ref. No: 16/01637/FLL
Ward No: N11 – Perth City North

Summary

The report recommends approval of the application to amend the operating hours of the floodlights as the requested variation is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 This application relates to a recently completed flood-lit all weather football pitch at Seven Acres Public Park which is located on Newhouse Road within the Letham residential area of Perth. Since opening in September 2014 the new sports facility has quickly become an asset to the local community, particularly in relation to the younger age groups. The football club has also seen an increase in young members joining the team.
- 2 The facility was approved in December 2011 by the Development Management Committee. The club had initially proposed to operate until 2200 hours and whilst this was supported by the Planning Officer and Environmental Health Officer, Members resolved to limit the operating hours to 2100 hours following concerns raised regarding the potential impact of noise and light pollution on neighbouring residential amenity.
- 3 In September 2015 the club were granted consent by the Development Management Committee to permit the club to extend the operating hours until 2200 hours for a trial period of one year. This trial period was to allow the Council to monitor the situation and review any issues that may or may not arise during the extended operating hours. During the period of the trial period neither the Planning Authority nor Environmental Health Service received any formal complaints regarding the operation of the facility.
- 4 As the one year trial period has ended the club are now seeking permission to amend Condition 2 of the 2011 consent in order to permanently extend the operating hours by an additional hour to 2200 hours.
- 5 It should be noted that the football club also has a separate land lease in place with Perth and Kinross Council. This matter is briefly discussed within the main body of this report.

NATIONAL POLICY AND GUIDANCE

- 6 The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

Scottish Planning Policy 2014

- 7 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.

PAN 1/2011 – Planning and Noise

- 8 This document provides guidance on matters relating to noise issues and sets out the range of noise issues that planning authorities need to be aware of in formulating development plans, making decisions on planning applications and in taking enforcement action.

DEVELOPMENT PLAN

- 9 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 10 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2014

- 11 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 12 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 13 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy CF1A – Open Space Retention and Provision

- 14 Development proposals resulting in the loss of Sports Pitches, Parks and Open Space which are of recreational or amenity value will not be permitted, except in circumstances where one or more of the criteria set out apply.

Policy EP5 - Nuisance from Artificial Light and Light

- 15 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

Policy EP8 - Noise Pollution

- 16 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

SITE HISTORY

- 17 97/01782/FUL Erection of football changing rooms at Seven Acres Park, Newhouse Road, Perth Approved under delegated powers January 1998
- 18 04/02523/FUL Proposed temporary siting of a portakabin to be used for changing accommodation Approved under delegated powers March 2005 for temporary period until 31 March 2008.
- 19 05/02372/FUL Erection of a portakabin to provide additional changing facilities Approved under delegated powers, February 2006 for temporary period until 28 February 2008.
- 20 08/00447/FUL Siting of 3 portable storage units. Approved under delegated powers, April 2008 for temporary period until 30 April 2010.
- 21 09/00374/FUL Change of use from clubroom to players café. Approved under delegated powers, June 2009 for a temporary period until 30 April 2010.
- 22 11/01526/FLL Siting of six portable units including changing room and cafe (in retrospect). Approved by the Development Management Committee January 2012 for a temporary period until 31st December 2014.
- 23 11/01669/FLL Formation of an all-weather sports pitch with associated infrastructure. Approved by the Development Management Committee December 2011

- 24 15/00391/FLL Siting of six portable units including changing room and cafe (in retrospect) Approved under delegated powers April 2015 for a temporary period until 30th April 2017.
- 25 15/00999/FLL Variation of condition 2 (hours of operation of floodlights) of permission 11/01669/FLL (formation of an all-weather sports pitch and associated infrastructure) on land at Seven Acres, Newhouse Road, Perth. Approved by the Development Management Committee in September 2015 for a temporary period of one year.

CONSULTATIONS

External

- 26 None

Internal

Environmental Health

- 27 No formal verified complaints received by the Environmental Health Service with regards to noise or light within the last year. Therefore they have no objection to the extended operating hours being made permanent.

REPRESENTATIONS

- 28 3 letters of objection have been received from local residents. The grounds of objection can be summarised as follows:
- Light pollution
 - Anti-social behaviour
 - Breaches of operating hours
 - Traffic Congestion and Road Safety
- 29 24 letters of support have also been received which note the success of the facility to date and support the extension of the operating hours.
- 30 The issues which are considered material planning issues are addressed in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	Not required

APPRAISAL

Policy

- 32 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.
- 33 The site is located within an area that is identified as open space where Policy CF1A 'Open Space Retention and Provision' is applicable. However, given the nature of the proposals, it is considered that the main relevant policies contained within the Perth and Kinross Local Development Plan 2014 are Policy EP5 'Nuisance from Artificial Light and Light' and Policy EP8 'Noise Pollution'. Policy EP5 outlines that consent should not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects. Policy EP8 outlines that there is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses.
- 34 In this instance the main issues to consider in the assessment of this application relate to the potential impact of any additional noise and light pollution on neighbouring residential properties from the extended operation of the floodlights and football pitch.

Residential Amenity

- 35 It is noted that three objections have been received which still raise concerns regarding noise and light pollution. However this is significantly less than the 6 objections previously received during the assessment of the 2015 application. Furthermore, there have also been 24 representations received in support of the proposals to extend the operating hours.
- 36 It is important to highlight that the trial period was permitted to allow the Council to monitor the impact of the extended operating hours and during this one year trial period the Planning Authority received no formal complaints regarding the operation of the facility. The Environmental Health Service has also confirmed that they also did not receive any formal verified complaints with regards to noise or light within the last year.
- 37 It is therefore considered that the one year monitoring period has successfully demonstrated that operating the floodlights until 2200 hours does not have a significant adverse impact on neighbouring amenity. As such the request to extend the operating hours on a permanent basis is now deemed to be acceptable.

Anti-Social Behaviour

- 38 The objections received have made reference to anti-social behaviour from users of the facility, particularly in relation to bad language used by adults during football games. Whilst it is acknowledged that such behaviour can be distressing to local residents, the conduct of players using the facility is not a planning matter and should be addressed directly by the club that operate and manage the facility.
- 39 It is also noted that concerns have been expressed in relation to the behaviour of groups outside the pitches. It is not clear whether the objectors are referring to players entering or leaving the facility but any anti-social behaviour taking place out with the facility is not a planning matter and is not something that the club can control. It is considered that any occurrences of anti-social behaviour should be raised directly with the Police.

Developer Contributions

- 40 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

Economic Benefits

- 41 The operation of the football pitch is of limited economic benefit to the local economy but the proposed increase in operating hours will provide additional availability for the hire of the pitch which in turn would increase the amount of revenue generated for maintenance of the pitch and any future improvements to the facility.

Land Lease with PKC

- 42 The football club has leased the land from the Council for a period of 35 years. The terms of this lease include a number of conditions, including a condition that restricts the operating hours of football pitch and floodlights. As such, if planning permission were to be granted to extend the operating hours, the football club may also need to negotiate an amendment to the terms of the lease. This is a matter that is separate from the assessment of this planning application but the applicant has been informed that this would need to be discussed with the Council's Estate's Team.

PLANNING AUTHORITY WITH INTEREST IN THE LAND

- 43 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. As the recommendation of approval is not a significant departure from the Development Plan, a notification to the Ministers is not required.

LEGAL AGREEMENTS

44 None

DIRECTION BY SCOTTISH MINISTERS

45 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in, or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

46 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval.

RECOMMENDATION

A Approve the application subject to the following conditions:

Conditions:

1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.

Reason - To ensure that the development is carried out in accordance with the plans approved.

2 The hours of operation of the floodlights shall be 09.00 hours to 22.00 hours Monday to Sunday.

Reason - To protect the residential amenity of the locality.

3 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to be less than 10 Lux at the windows of adjacent residential properties as recommended by the Institute of Light Engineers

Reason - To safeguard the visual and residential amenities of the locality by ensuring the reduction of illumination outwith the site.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 The applicant should be aware that the lease may also need to be amended to permit the proposed extension to the operating hours. Please contact Estates Surveyor Malcolm Hill on 475916 to discuss the matter.

Background Papers: 27 letters of representation
Contact Officer: David Niven – Ext 75345
Date: 27 October 2016

NICK BRIAN
INTERIM HEAD OF PLANNING

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