

Planning Committee

18 February 2009

**Development by the
County Council**



Report of Rod Lugg, Head of Environment and Planning

Purpose of the report: To enable the Committee to determine applications for planning permission which have been received in accordance with the requirements of the Town and Country Planning General Regulations 1992.

Wear Valley District: Provision of tennis courts and floodlighting columns and associated works – RETROSPECTIVE APPLICATION for works carried out that vary from the approved scheme (Planning Permission 3/2008/269), Bishop Barrington School, Woodhouse Close, Bishop Auckland (Regulation 3)

Introduction

- 1 Planning permission was granted in June 2008 for the provision of upgraded tennis courts, including eight floodlighting columns, fencing and a new tarmacadam surface at the school. Construction works commenced during the school holidays when concerns were raised by neighbouring residents that the scheme was not being built in accordance with the approved plans. This was subsequently found to be the case. The scheme has since been completed and this application seeks retrospective planning permission for the amended layout.
- 2 As a separate but related issue two formal complaints have been made regarding the way this matter has been handled, and these are currently going through the County Council's formal complaints procedure.

Revisions

- 3 The upgraded tennis courts are positioned on the north eastern side of the school site adjacent to residential properties in Arundel Close and Lambton Drive. The approved plans showed the north east corner of the tennis courts positioned 2.3m away from the boundary fence and 6.1m from the boundary fence in the south east corner. Prior to the commencement of upgrading works mains gas and electricity supplies were discovered by the contractors to the west of the existing tennis courts. A decision was therefore taken to reposition the courts further to the east for a combination of health and safety and cost reasons. This has resulted in the courts moving to within 2.25m of the boundary fence in the north east corner and 6.25m in the south east corner.
- 4 Eight 8m high floodlighting columns were also proposed as part of the original submission. These supported a combination of twin and single head lanterns to illuminate the three most southerly courts and were to be coloured dark green to correspond with surrounding ball stop fencing. The approved plans showed these located inside the fence line of the courts with the most north easterly column positioned approximately 5m from the boundary fence and the floodlighting column in the south east corner approximately 7.2m from the boundary fence.
- 5 Because of health and safety issues surrounding the positioning of the floodlighting columns within the play area, the contractors re-sited these immediately outside the enclosing ball stop fence. The most north easterly column is therefore now positioned approximately 3.6m away from the boundary fence and the most south easterly floodlighting column approximately 6m away from the boundary fence. This repositioning also occurred on the west side of the courts where the lights had been moved closer to the sports hall.

- 6 A modification with regard to the hours of use of the floodlighting is now proposed. The original planning consent approved the use of the floodlights until 9pm Monday to Friday and 6pm Saturdays and Sundays. The school has now agreed to limit use of the lights until 8pm instead of 9pm during the winter months. Floodlights would only be used when required within these hours and to illuminate individual courts that are actually in use.

Consultations and Representations

- 7 Wear Valley District Council has no objections.
- 8 Bishop Auckland Town Council has advised that it has no objections subject to no objections being received from members of the public.
- 9 The application has been advertised on site and neighbouring residents notified. Three letters have been received from neighbouring residents, including two letters from the two residents involved in the formal complaints procedure who have requested that concerns listed in their correspondence be reported to the Planning Committee. The following issues have been raised:
- The floodlights have been positioned 2.5m closer to residential properties on Lambton Drive than shown on the approved plans.
 - Floodlighting has been positioned outside the tennis courts rather than inside as shown on the approved plans.
 - Residents were not informed of the date of the original Planning Committee meeting at which planning permission was granted for the development or on the procedure for commenting on planning applications.
 - Appropriate consideration to the effect of the tennis courts and floodlights upon residential amenity has not been given during the planning process or by the school during construction of the tennis courts.
 - Tennis balls land in residents gardens. In the past school pupils have scaled the fence without permission to retrieve these. They may also hit windows and damage residential property.
 - Unacceptable noise would occur from the tennis courts, from pupils and from balls hitting the fence. Residents have received verbal abuse and hear bad language from the tennis courts.
 - The school has continued to use the floodlights although residents were told this would not happen until planning permission had been granted for the revisions to the scheme.
 - The floodlights are visually intrusive to residential properties.
 - Residents have suffered stress and anxiety and an invasion of their privacy as a result of the development.
 - Cutting the school's boundary hedge adjacent to residential properties in Lambton Drive may be problematic in future as it is no longer possible for a tractor to cut the full length of hedge. The hedge on the north eastern corner will now have to be cut manually.
 - Residents have requested that a further meeting is held on site with members of the Planning Committee to discuss the matter.

Comment: The amenity implications of the proposal are considered in paragraphs 11 - 17.

Officers and local members have previously met with residents in relation to the unauthorised works and individuals have been seen as part of formal complaint procedures. Officers have met with residents again as part of the current submission. At the meeting residents reiterated their concerns regarding the development and other issues raised included the design of the lighting columns.

Planning Comment

Planning Policy

- 10 Planning permission has already been granted for a scheme that is substantially the same as that implemented. The key planning issues therefore concern whether the amendments raise any new material issues or concerns in terms of noise, visual impact and light pollution. Policy GD1 of the Wear Valley District Local Plan is relevant in this respect.

Residential Amenity

- 11 Use of the tennis courts and floodlights has some impact on the amenity of neighbouring residential occupiers. Seven properties directly border the site. The closest of these, two bungalows on Arundel Close are approximately 5m to the north of the tennis courts and the rear elevations of these properties face the site. However, the most northerly of the four tennis courts is not floodlit and the closest floodlighting columns are positioned approximately 22.5m away. The rear elevations of properties in Lambton Drive are between 11m and 18m from the courts (this being from the rear wall of the properties but a number of properties have conservatories attached).
- 12 The position of the tennis courts has only altered slightly from that which was originally approved and the design and layout has remained the same. The floodlighting columns are now positioned outside the play area and closer to the eastern boundary with residential properties over the line of ballstop fencing.
- 13 As a result of the revised siting the position of the lights would be 17 metres from the nearest residential properties to the east on Lambton Drive, instead of 18.2 metres as previously. Boundary fencing and hedging provides some lower level screening of the courts.
- 14 A further lighting assessment was submitted with the revised application and concludes that repositioning the columns outside of the fence line has no adverse impacts on the levels of spillage control that can be achieved. This indicates that there would not be a material change in lighting levels between the two schemes. The floodlights meet Lawn Tennis Association standards and are designed and operated to be focused on the courts and provide limited backspill on adjacent areas. The County Council's Mechanical and Electrical Section agrees with the findings of the Lighting Engineer's (Arylect Associates) report and that the lights are not a cause of unacceptable light pollution 15 metres from the fence line.

- 15 Regarding the proximity and appearance of the columns in relation to residential properties the movement 1.4 metres (the most north easterly column) and 1.2 metres (the other columns) closer to the boundary has no material affect and those on the western side are now further to the same degree. The height of the columns remains as before and they are grey in colour. The angle of the lantern heads has been adjusted such that the lighting remains compliant with the original design.
- 16 Whilst the construction of courts in an amended form without planning agreement cannot be condoned the school has agreed to reduce the hours when the floodlights are in use. The reduction of hours of use from 9pm to 8pm during the week in winter months would represent an improvement in residential amenity terms and it is the case that only those courts that are in use would be lit.
- 17 The school has previously indicated that use of the courts outside of school hours would be subject to a formal booking and payment system, similar to that already used by the school for the existing sports hall. This is intended to encourage responsible use of the facility. The courts are secured when not in use and monitored by a CCTV camera attached to the sports hall. Should any unacceptable behaviour occur users would be asked to leave and would be unable to book courts in future. Reasonable steps therefore appear to be being taken to manage use of the facility and minimise unacceptable noise, disturbance and anti-social behaviour.

Recommendation and Reasons

- 18 The revisions to the scheme should have been formally raised with and considered by the Planning Authority before they were implemented and have been the source of much upset and concern from some residents resulting in formal complaints.
- 19 However from the planning viewpoint they represent a relatively minor change from the approved plans. The tennis courts and floodlighting columns have moved only a small distance closer to residential properties and would not have a greater impact upon residential amenity than the original proposal.
- 20 I am therefore of the view that the development remains a community facility that relates acceptably to the site and surrounding area in visual and residential amenity terms. Subject therefore to conditions to control the use and hours of operation of the facility to reflect the new timescale, I **recommend** that planning permission be granted for the amended scheme for the following reason:
 - i) The amended proposal by virtue of the size, location, appearance and nature of the use, intended hours of use and lighting levels would have an acceptable impact in terms of the visual and residential amenities of the surrounding area and would accord with Policy GD1 of the Wear Valley District Local Plan.

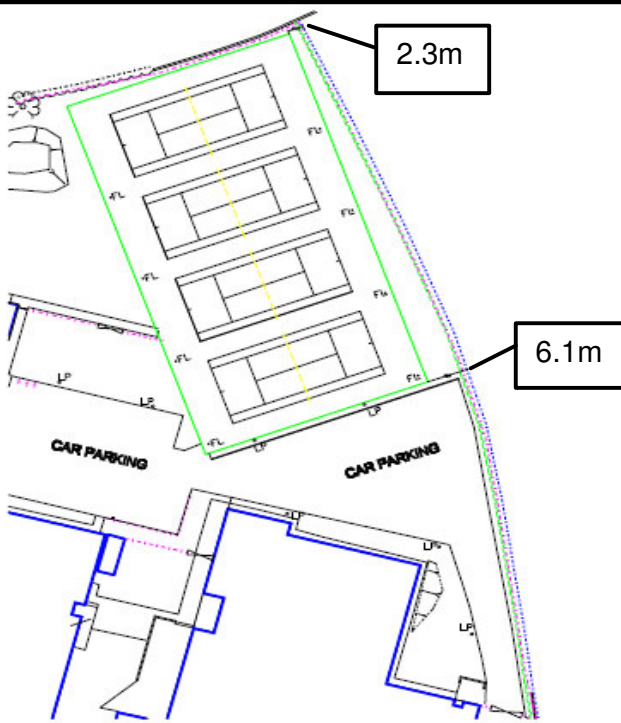
21 Notwithstanding the acceptability of the scheme in planning terms, the school be advised of the Planning Committee's concerns that these amendments were carried out without the prior notification of the planning authority or the benefit of planning permission. The Committee therefore expects full compliance with planning and management controls that are to be put in place during use of the facility.

No departure from policies contained in the Wear Valley District Local Plan (1997)

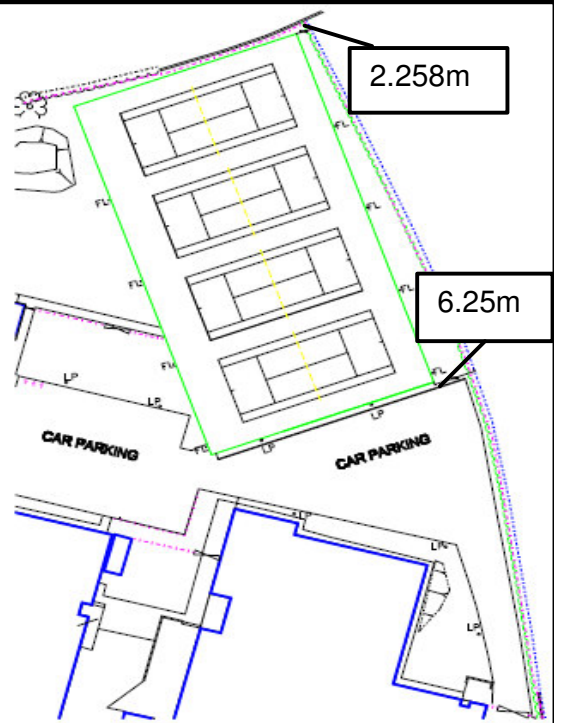
Background Papers: Application, consultations and responses, site location plans on the application file 928/3/16(9).

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Local Members:	Councillors N Harrison and S Zair (Bishop Auckland Town)	

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Approved layout



Amended layout