

ITEM 2

INSTALLATION OF NEW LOW LEVEL FLOODLIGHTING TO FIVE EXISTING OUTDOOR FLOODLIT TENNIS COURTS 4 TO 8 INCLUSIVE AT CHESTERFIELD LAWN TENNIS CLUB, HAWKSLEY AVENUE, CHESTERFIELD FOR CHESTERFIELD LAWN TENNIS CLUB.

Local Plan: Sports Pitches and Playing Fields

Ward: Brockwell

Plot No: 2/182

Committee Date: 07.12.2020

1.0 **CONSULTATIONS**

Ward Members	No comments received
Planning Policy	Comments received – see report
Environmental Services	Comments received – see report
Leisure Services	No comments received
Highways Authority	Comments received – see report
Sport England	Comments received – see report
Neighbours and Site Notice	2 representations received – see report

2.0 **THE SITE**

- 2.1 The site is the established Chesterfield Lawn Tennis Club on Hawksley Avenue which has been operating since the early 1960s. It comprises the main tennis centre building which includes indoor courts and all the associated facilities together with 7 No external courts.
- 2.2 As can be seen for the aerial Google extract below the main building is positioned to the north west of the site to the rear of Malvern Road property and which is set back behind the car park area on the Hawksley Avenue frontage. The external courts are positioned to the south and east sides of the site.
- 2.3 The site is surrounded by residential property on all sides. To the west is Malvern Road, to the south and south east is Oakley Avenue and

the east and north east are properties on Hawksley Avenue. A footpath connection links Oakley Avenue to Hawksley Avenue along the east boundary of the site.

- 2.4 Five of the external tennis courts are floodlit with only the court on the Hawksley Avenue frontage and the one to the south west corner of the site which remains without lighting.



3.0 SITE HISTORY

- 3.1 CHE/361/2 – Change of Use of Nursery Garden to Tennis club
Approved 18.04.61
- 3.2 CHE/168/2 – Erection of Floodlighting at Court 5 (immediately north of 34 Oakley Avenue with 1 column on the boundary) – Approved 23.1.68 (Condition 2 required details of precise positioning and shading to prevent annoyance to the occupants of the adjoining residential property).
- 3.3 CHE/683/356 – Pavilion extension for members lounge – Approved 28.6.83

- 3.4 CHE/1190/779 – 8 No floodlights to replace existing floodlights on 3 No courts to the south east side of the site – Approved 17.1.91
Condition 2 required that the lights should not be illuminated after 10:00 on any day and condition 3 required agreement to the positions of the columns and light units and the associated light spread. (The columns were shown to be 8 metres high with 400watt lamps and 350 lux illumination)
- 3.5 CHE/697/296 – Outline for new Indoor Tennis Centre – Approved 23.9.97
- 3.6 CHE/900/538 – Renewal of Outline for new Indoor Tennis Centre – Approved 8.11.00
- 3.7 CHE/04/00026/FUL – 3 Court Indoor Tennis Hall with Changing and Bar facilities – Approved 17.3.04
- 3.8 CHE/04/00614/FUL – Part demolition of clubhouse and 3 Court Indoor Tennis Hall with Changing and Bar facilities and 2 No portakabins – Approved 10.9.
- 3.9 CHE/05/00007/FUL – Floodlighting to 2 No courts (centre of east boundary) – Approved 1.3.05 – Condition 3 limits illumination to not before 08:00 or after 22:00 on any day.
- 3.10 CHE/05/00040/FUL – Extension of Clubhouse to form changing room in lieu of portacabin – Approved 22.3.05
- 3.11 CHE/07/00225/FUL – Groundsman store – Approved 16.5.07

4.0 THE PROPOSAL

- 4.1 The application proposes replacement of the existing floodlighting columns and units on courts 4 to 8 which are situated to the south and east side of the site.

Courts 4-6

- 4.2 The 8 No existing columns are 8.0 metre high and positioned in a mid side lighting arrangement and accommodate 24 No 400 watt metal halide projector fittings.

4.3 The proposal is to replace with 12 no 6.5 metre high columns with 14 No LED lamps arranged in a corner and centre line arrangement.

Courts 7/8

4.4 The 9 No existing columns are 6.7 metre high and positioned in a side and corner lighting arrangement and accommodate 12 No 1kw metal halide box fittings.

4.5 The proposal is to replace with 9 no 6.5 metre high columns with 10 No LED lamps arranged in a side and corner positioning similar to the existing positioning.

4.6 The proposal is designed to meet LTA minimum standards at the same time as reducing power consumption, maintenance and the extent of light spillage and sky glow. The LED lamps are proposed to be Phillips Optivision which are compact and have 2000 hour life expectancy.

4.7 The applicant is seeking to benefit from a DCC Sustainability Grant for £20,000 which was awarded in May 2020





Existing column positions



Proposed column positions

5.0 CONSIDERATIONS

5.1 Planning Policy

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP17 Play Provision and Sports Facilities
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)

5.4 Key Issues

- Principle of development;
- Design and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highways safety;
- Biodiversity and impact on protected species;

5.5 Principle of Development

5.5.1 The application site is an established sporting facility which is reflected in the allocation in the new Chesterfield Local Plan. The sporting venue provides positive health and wellbeing benefits which are to be encouraged as a golden thread which runs through the local plan and which are supported in the National Planning Policy Framework. The applicants intention is to enhance the facilities to encourage an increase in the number of participants in the sport activity.

5.5.2 The site is sustainably located within the urban area close to facilities and accords with the principles of location of development as advocated in the local plan. Sport England has confirmed that no objections arise to the proposal on the basis of the energy efficiency of the scheme and from a sustainability point of view. They comment that the proposal supports the continued use of the facility beyond daylight hours in line with the current hours of operation.

5.5.2 Paragraph 17 of the NPPF requires the local planning authority to take account of and support strategies to improve health, cultural and social wellbeing for all and deliver sufficient community and cultural facilities and service to meet local need. Paragraph 69 goes on to say that the planning system can play an important role in facilitating social interaction and creating healthy inclusive communities and paragraph 70 seeks to ensure that facilities and services are able to develop and modernise in a way that is sustainable and allows them to continue to provide those services. Paragraph 180 states that 'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'

5.5.3 The National Planning Practice Guidance on Light Pollution (Paragraph: 002 Reference ID: 31-002-20191101) also sets out a series of questions:

- Will a new development, or a proposed change to an existing site, be likely to materially alter light levels in the environment around the site and/or have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces?
- Is a proposal likely to have a significant impact on a protected site or species? This could be a particular concern where forms of artificial light with a potentially high impact on wildlife and ecosystems (e.g. white or ultraviolet light) are being proposed close to protected sites, sensitive wildlife receptors or areas, including where the light is likely to shine on water where bats feed.
- Does the proposed development include smooth, reflective building materials, including large horizontal expanses of glass, particularly near water bodies? (As it may change natural light, creating

polarised light pollution that can affect wildlife behaviour.)

- 5.5.3 Policy CLP 20 of the adopted local plan also promotes development which reduces emissions.
- 5.5.4 It is clear that the principle of upgrading the lighting units is supported by local and national policy in that it utilises the latest technologies and reduces the requirement for maintenance, energy costs (50% lower power use) and potential light pollution. The proposal will also enhance the facilities such as removing column positions which are a safety hazard to players but also brings with it an opportunity to promote the site as a quality facility and which will increase participation in sport with the obvious health and wellbeing benefits and overall accords with the provisions of the NPPF and local plan policies CLP17 and CLP17.

5.6 Design and Appearance of the Proposal

- 5.6.1 Local Plan policy CLP20 states *all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.*
The policy includes criteria as follows:
....m) minimise the impact of light pollution;
....n) be able to withstand any long-term impacts of climate change.
- 5.6.2 In design and appearance terms the impact of the proposal is limited since the site is already a well established facility and the courts already include floodlighting. The proposal will result in a less significant impact as a result of the overall reduction in the number and height of columns and the less bulky lamp units. In appearance terms the differences will be small but will be positive.
- 5.6.3 In design terms the incorporation of updated technology represents a sustainable approach. The columns are to be coloured dark green (RAL6005) and will have an acceptable appearance. The new lamp units are compact, compared to the existing box units and are designed with integral louvres in the casing to ensure the light sources are screened and directed to the areas which require illumination. The existing units do not incorporate shielding or louvres and the new units will therefore reduce stray light and concentrate the illumination where

required giving an overall more efficient performance. The new lamp units will certainly achieve the policy requirements to minimise the impact of light pollution and counter the long-term impacts of climate change

- 5.6.4 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposal will therefore accord with the design provisions of policy Local Plan policy CLP20.

5.7 Impact on Neighbouring Residential Amenity

- 5.7.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. Furthermore Policy CLP20 refers to criteria which include:
....k) have an acceptable impact on the amenity of users and neighbours;
- 5.7.2 The Tennis Club site is surrounded on all sides by residential properties and which have co-existed for the past 50-60 years since the early 1960s. The properties most closely affected by the current proposals are those on Oakley Avenue to the south and east and in particular No 34 and 39 Oakley Avenue and 12 Hawksley Avenue to the east.
- 5.7.3 The use of the floodlighting on all 5 courts is already restricted to no later than 10:00 pm on any day and it would be necessary to continue with the same hours restriction in the event of an approval in this case. The main issue with the current proposal is the possible impact of the changes in so far as the illumination of the neighbouring properties and the consequential impact on their amenity.
- 5.7.4 Currently, as evidenced in conversations with a neighbour, reference has been made to the existing lighting units illuminating their garden areas. It is clear that the existing lamp units are not provided with any louvres and it is the case that light strays beyond the tennis court site. Furthermore the existing lighting is all linked to a single switch and it is not possible to operate the lighting units independent of each other. The existing units also take time to warm up.
The new LED technology provides instant on and off operation and the individual light units will be capable of being operated independently of the others. This ensures there is a higher level of control over their

use. Furthermore the new light units have built in louvres such that the light sources can be screened and the light pool can be manipulated such that it is only directed towards the areas which need illuminating. The scheme also proposes to include bespoke rear deflectors to the 3 No columns closest to the southern boundary and the 2 columns closest to the east boundary. The new column positions around courts 4 – 6 will assist in reducing stray light notwithstanding the fact that they will be positioned closer to the site boundary.

5.7.5 No 34 Oakley Avenue sits parallel to the existing courts at close range. The existing columns are positioned mid way down the side lines of the courts and therefore inevitably result in stray lighting into the garden and dwelling. The proposal moves the side columns to the centre court line further away from the boundary but puts new columns along the base line. Whilst these columns are closer to the neighbour they will be directed away from the neighbour and so would provide a beneficial impact compared with the existing arrangement. There is no doubt that the relationship between the tennis courts and this property are very close and it is not possible to screen and the residents of this property will have taken that into account when acquiring the property. The key consideration in this case is that the proposal does not make the impacts on the neighbour any worse and it is considered that the impacts will actually be reduced.

5.7.6 No 39 Oakley Avenue and 12 Hawksley Avenue are positioned with their side gable facing towards the tennis courts and which is also separated by a public thoroughfare and a landscaped edge to the site. The impact on these neighbours is not considered to be significant.



Photo from west garden side of 34 Oakley Avenue



5.7.7

Photo taken looking south along public footpath connection
The Council's Environmental Health Officer comments that the proposed lighting has a high colour temperature (ie will provide a bright white light), and the specification for the lights indicates a broad spread. The EHO comments that whilst he is satisfied that the

proposed installation will not adversely illuminate the surrounding premises, he expresses a concern that there is the potential for glare and with this in mind he asks that any permission granted specify that the lights shall be mounted in such a way as to prevent glare to neighbouring residential properties and road traffic. He comments that this may involve fitting shrouds to the light fittings themselves.

5.7.8 The proposal brings with it the opportunity for significant improvements to the amenity of the surrounding residential properties though a more controlled and efficient system. The applicant has provided a Lighting Impact Assessment by Sport Facility Planning & Design Ltd which provides a modelling of the obtrusive light stray for the site with a maximum limit of 10 lux. The value predicted for 34 Oakley Avenue is a max of 0.3 lux and for 12 Hawksley Avenue is 0.5 lux with confirmation this is acceptable. It is accepted however that the light sources will need to be fitted with shrouds/deflectors to ensure that the light pool is contained within the site and this can be secured by condition of any permission.

5.7.9 Having consideration for the observations above the proposal is considered to be appropriately designed and is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. Indeed the prospect will be that the impacts will be less significant than those arising from the existing light units. Two letters of representation have been received, see section 6.0 below. The proposal will accord with the provisions of Local Plan policy CLP14 and CLP20.

5.8 Highways Safety

5.8.1 Local Plan policy CLP20 and CLP22 require consideration of impact on highway safety. The Local Highways Authority reviewed the proposal and has raised no objections to the development subject to a condition requiring a survey to be carried out by an independent, suitably qualified person post commissioning of the floodlighting to ensure that no light source is directly visible to drivers approaching Hawksley Avenue from Cromwell Road (i.e. to reduce the likelihood of glare adversely impacting on safe operation of the highway) with any lantern in breach of this being switched off until such time that revisions are made to address the issue to the satisfaction of the Local Planning Authority.

5.8.2 The impact on highway safety is a material planning consideration however the lighting columns are positioned to the rear part of the site away from the highway frontage. Nevertheless it will be necessary to ensure that the light units are appropriately angled towards the court playing surface so the light sources are not dazzling drivers of vehicles emerging from Cromwell Road opposite the site. It is reasonable to impose a condition which safeguards such a highway safety matter. This will ensure that the proposal is not contrary to policy CLP 20 and CLP22

5.9 **Biodiversity and Impact on Protected Species**

5.9.1 Local Plan policy CLP16 Biodiversity, Geodiversity and Ecological Network states;

‘The council will expect development proposals to:

- protect, enhance and contribute to the management of the borough’s ecological network of habitats, protected and priority species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a local wildlife site or priority habitat; and*
- avoid or minimise adverse impacts on biodiversity and geodiversity; and*
- provide a net measurable gain in biodiversity’*

5.9.2 In addition to this protected species such as Bats are European Protected Species protected under the Conservation of Habitats and Species Regulations (2017) (as amended) and the Wildlife and Countryside Act (1981) (as amended).

5.9.3 The proposal is a minor scheme in so far as any impact on biodiversity is concerned and the need to provide a net gain does not arise in the circumstances. It is accepted however that lighting can affect bat foraging however the existing courts are already illuminated and the proposal does not extend this so the impact on any protected species is unlikely to be any different compared with the existing impacts.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by neighbour notification letters and site notice and 2 representations have been received.

6.2 **34 Oakley Avenue**

Concerns regarding:

- position of new lights close to house especially near 2 bedrooms and kitchen;
- the extra number of lights;
- Confirmation of hours outside courts are used, on the website it's mon to fri 10am to 8pm and sat/sun 10am - 4pm but they are being used recently from 8am to 10 pm 7 days a week which has created a lot of noise to the point we cannot hear tv in room – have asked to not extend these hours but still happening.
- Question whether it would be possible for them to put hedges or shrubbery along fencing to quiet the noise from players down which may impact on where the lights are suppose to be going

6.3

17 Oakley Avenue

Confirm no objection subject to 22:00 switch off and no excess light spillage.

6.4

Officer comments – See paragraph 5.7 for consideration of impacts on then neighbours. The hours of operation of the floodlights was established in the permissions issued for the existing floodlights in 1991 and 2005 and which was that they should not be used after 10:00 pm. The clubs website may have different hours however the planning restriction on their use is up to 22:00 and it will be appropriate therefore to repeat the hours restriction on any permission issued for replacement lighting units.

The impact on light spillage is a material consideration however the application brings the prospect of use of up to date technology to achieve an improvement compared with the existing arrangement, which is acknowledged to be an issue. The scheme has been assessed in so far as obtrusive light impacts and the positioning of the columns and design of light units can achieve the improvements required. It is accepted that this will involve the use of deflectors and shrouds to ensure light sources and light spillage is not an adverse problem.

The suggestion of planting shrubs to help address a noise issue is not of relevance to the proposal for replacement light units.

7.0

HUMAN RIGHTS ACT 1998

7.1

Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law

- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of 2019 National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

9.0 CONCLUSION

9.1 The application for the replacement lighting units for 5 courts is acceptable given the sustainable benefits which can be achieved in so far as energy use (and climate change benefits), energy bills, reduced maintenance and the benefits to local neighbours through enhanced

technology to give a greater degree of control and a targeted lit area which minimises pollution and light spillage. Appropriate safeguards can be added to any permission through the use of conditions and, on this basis, the proposal therefore accords with the requirements of policy CLP17 and CLP20 of the adopted Local Plan 2018 – 35 and the requirements of the wider NPPF.

10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be **GRANTED** subject to the following:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

***Reason** - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004*

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Location Plan 2020-CAS-025-OD-010
- Block Plan 2020-CAS-025-OD-011
- Existing Layout 2020-CAS-025-OD-012
- Proposed Layout 2020-CAS-025-OD-013
- Existing Elevations 2020-CAS-025-OD-014
- Proposed Elevations 2020-CAS-025-OD-015
- Existing 3d View 1 2020-CAS-025-OD-016
- Existing 3d View 2 2020-CAS-025-OD-017
- Proposed 3d View 1 2020-CAS-025-OD-018
- Proposed 3d View 2 2020-CAS-025-OD-019

***Reason** - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

3. The floodlights hereby approved shall not be used between the hours of 22:00 and 08:00 on any day.

Reason: *In the interests of the amenity of neighbouring residential properties in accordance with policy CLP20 of the adopted Chesterfield Borough Local Plan*

4. The light units shall be positioned and provided where necessary with reflectors and shrouds to ensure that the light sources are screened to prevent obtrusive light stray beyond the application site boundary in accordance with the Lighting Impact Assessment by Sports Facility Planning & Design Ltd dated 3rd July 2020. The light units shall also be screened to ensure the light sources do not dazzle vehicle drivers emerging from the Cromwell Road junction onto Hawksley Avenue. In the event that the light sources are a source of nuisance to vehicles emerging from Cromwell Road, those lights shall be turned off until appropriate mitigating shrouding/screening has been provided.

Reason – *In the interests of the amenity of neighbouring residential properties and highway safety in accordance with policy CLP20 of the adopted Chesterfield Borough Local Plan*

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.