

DELEGATED REPORT

Application No:	P/22/0026
Site Address:	Thomastown Park Queens Road Twynyrodyn Merthyr Tydfil CF47 0HE
Development:	Variation of conditions 2 (Approved plans) and 4 (shrouding details) of Planning permission P/18/0345 in order to allow new light fittings to be installed on the approved columns
Case Officer:	Caroline Pulley
Site Visit:	17th February 2022
Application Expiry Date:	5th April 2022
Consultation reply date expired:	10th March 2022

APPLICATION SITE

The application site relates to three tennis courts, enclosed by high steel mesh fencing, located to the north of the bowling green at Thomastown recreational ground. The courts are sited on a flat parcel of land, accessed off Queens Road, by means of a pedestrian access. The courts are located approximately 2 metres below the level of Queens Road.

The site abuts grassed areas to the north, the pedestrian path (and Queens Road beyond) to the east, the bowling green to the south and mature trees (and St. Tydfil's Hospital beyond) to the west. Mature trees (which have been pollarded) and a hedge line Queens Road to the east.

The application site lies within the settlement boundary – Primary Growth Area and within the Thomastown Conservation Area, as designated within the Merthyr Tydfil Local Development Plan 2006-2021.

PROPOSED DEVELOPMENT

Planning permission was approved at Thomastown Park in 2019 (Ref: P/18/0345) for the erection of 10 lighting columns, each housing two LED floodlights. This Section 73 application has been submitted to vary conditions 2 and 4 of planning permission P/18/0345, which refer to the list of approved plans and the fitting of shrouds to each floodlight.

Condition 4 currently states:

'Prior to the floodlights, hereby permitted, being brought into use they must be fitted with shrouds in accordance with the details received on 15th February 2019. The floodlights (with shrouds) shall be retained as such thereafter.

Reason - To ensure that the floodlights are not a source of nuisance to the occupants of nearby properties and to limit the impact on the conservation area and bats in accordance with Policies BW5, BW6 and BW7 of the Merthyr Tydfil Local Development Plan.'

The applicant has requested that the conditions are varied to enable the light fittings on each of the 10 approved columns to be changed. The siting of the columns around the tennis courts would remain unchanged by this application.

The accompanying information provided with the application states that the approved light fittings achieve around 20 lux in the centre of the tennis courts, whereby for health and safety, the governing body suggests a lux level of 400-500 lux. As such, it is proposed to change the two light fittings, which were approved on each of the 10 columns.

The new light fittings which would comprise 2700K 'warm white' 665w LED lights, would measure 0.461m wide and 0.80m in length and would have an anthracite grey finish. The information provided states that the new light fittings would have asymmetrical fittings so the lens are more angled and more focussed on the tennis courts and thereby reducing the light spillage outside of the site, due to the lights being designed for sport specific settings.

The application is accompanied by a proposed light spillage plan.

PLANNING HISTORY

As mentioned above, planning permission was approved in March 2019 for the siting of 10 lighting columns around the three tennis courts at Thomastown recreational ground under application reference P/18/0345. There are no other recent planning applications relating to this site.

CONSULTATION

Head of Engineering: No objection.

Ecologist: Recommends several mitigation and enhancement measures to limit the impact of the proposed lighting on protected and priority species.

Environmental Health Manager: No objection.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the adjoining properties and site notices were displayed within the vicinity of the site.

Four letters of objection have been received to the application. The key concerns are summarised below:

- A resident living opposite the site notes that tennis courts are never busy other than in the summertime when it does not go dark until late in the evening. As such, the resident is of the view that the flood lights are not necessary;
- The installation of such large unsightly lights would spoil the natural appearance of the park as well as impinging on the occupiers of neighbouring properties situated opposite the tennis courts. It is claimed that the impact will be exacerbated now that the Council have cut back the trees next to the courts which the writer claims would have provided some protection from the floodlights;
- The money could be better spent on facilities that benefit a wider selection of the population rather than a select few;
- The floodlights will have a negative impact on the character of the area;
- A resident highlights that a compromise could be made by erecting the flood lights north to south instead of east to west. This would minimise the impact of the light shining directly across to neighbouring properties. Additionally, consideration should be given to not cutting back the trees in the future.
- The installation of 10 poles comprising 20 floodlights nearly 20 foot high will lower house prices on the four houses directly opposite the courts as the view will be tarnished with large obtrusive structures all year round.
- The site is located in a conservation area and it is considered that the flood lights would be an eye sore.
- Other facilities in the area are more suitable and have purpose built facilities for this type of recreation.

Local Ward Members were advised of the objection received to this application however, no request has been submitted requiring the application to be reported to the Planning Committee. As such, the application will progress to be determined by the Chief Officer Planning and Neighbourhood Services.

National Policy

The Future Wales – the National Plan 2040 sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

Planning Policy Wales (PPW) Edition 11 (February 2021) sets out the land use policies of the Welsh Government. The most relevant paragraphs are:

Paragraphs 3.9 and 3.10 refer to good design and character of an area *‘...The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations...’* *‘...In areas recognised for their particular landscape, townscape, cultural or historic character and value it can be appropriate to seek to promote or reinforce local distinctiveness. In those areas, the impact of development on the existing character, the scale and siting of new development, and the use of appropriate building materials (including where possible sustainably produced materials from local sources), will be particularly important...’*

Paragraphs 4.5.1, 4.5.2 and 4.5.6 refers to recreational spaces '*...Recreational spaces are vital for our health, well-being, amenity and can contribute to an area's green infrastructure. They provide a place for play, sport, healthy physical activity and a place to relax often in the presence of nature, and they contribute to our quality of life. Networks of high quality, accessible green spaces and recreation spaces will also promote nature conservation, biodiversity and provide enjoyable opportunities for residents and visitors to participate in a wide range of physical activities. These activities are important for the well-being of children and adults and for the social, environmental, cultural and economic life of Wales...*' '*...Planning authorities should provide a framework for well-located, good quality sport, recreational and leisure facilities, and develop clear policies for the provision, protection and enhancement of sport, recreation and leisure facilities...*' '*...Planning authorities should encourage the multiple use of open space and facilities, where appropriate, to increase their effective use...*'

Paragraph 6.1.14 refers to conservation areas '*...There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised. Planning authorities should establish their own criteria against which existing and/or new conservation areas and their boundaries should be reviewed...*'

Paragraph 6.8.1 6.8.3 and 6.8.4 discusses the use of lighting and states '*...There is a need to balance the provision of lighting to enhance safety and security to help in the prevention of crime and to allow activities like sport and recreation to take place with the need to: protect the natural and historic environment including wildlife and features of the natural environment such as tranquillity; retain dark skies where appropriate; prevent glare and respect the amenity of neighbouring land uses; and reduce the carbon emissions associated with lighting...*' '*...Planning authorities can attach conditions to planning permissions for new developments that include the design and operation of lighting systems, for example, requiring energy-efficient design and to prevent light pollution...*'

- Technical Advice Notes (TANs)

TAN 12 – Design (2016)

TAN 12 – Design, advises that the Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

Paragraph 2.6 of TAN12 states that '*...Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality or function of an area, should not be accepted, as these have detrimental effects on existing communities...*'

Paragraph 4.3 of TAN12 points out '*...Understanding the site and its immediate and wider context is the basis for a meaningful and sustainable design response, and is the responsibility of all those involved in the design process...*'

TAN16 – Sport, Recreation and Open Space (2009)

Paragraph 3.5 and 3.7 refer to outdoor facilities and state that *'...like playing fields, recreation grounds, play areas, footpaths and cycle routes and woodland can provide significant health, and environmental benefits for the community...'* *'...In addition to their environmental role they can also offer health and well-being benefits, and opportunities for community engagement...'*

TAN 24 - The Historic Environment (2017)

Section 1.14 of TAN 24 refers to conservation principles and *'... recognises that the whole of the historic environment is a finite and shared resource. Every place has its own history, which has shaped its character and leaves tangible traces in its present form and fabric. This historic character makes each place unique and gives it a distinctive identity. Historic character should be taken into account in the management of change in order to sustain local distinctiveness and a sense of place. The use of an objective, structured approach to identify the elements of historic character and creating an evidence base is vital...'*

Local Policy

Since the approval of original application (P/18/0345), the Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016-2031 has been adopted by the Council. Under the replacement plan, the following policies are considered to be of relevance to the proposal:

Policy CW1: Historic Environment
Policy SW11: Sustainable Design and Placemaking
Policy EnW4: Environmental Protection
Policy EnW1 – Nature Conservation and Ecosystem Resilience

PLANNING CONSIDERATIONS

While the concerns raised by residents are noted, planning permission has been granted for 10 lighting columns under the original application P/18/0345. During this application, a full assessment was made as to whether the proposed lighting would have an adverse impact on the character and appearance of the conservation area, upon the amenities of nearby residents and upon highway and pedestrian safety. The case officer concluded that the impact on the conservation area would be limited and had to be balanced against the positive benefits of enabling and encouraging greater use of the tennis courts. Additionally, subject to conditions, which limit the hours of illumination and ensures that the lights are shrouded, it was also deemed that the lighting would not cause a significant nuisance to the amenities of nearby occupiers.

The local planning authority cannot revisit the original permission and re-consider whether it should be granted in the first place. The main consideration for this application is whether the variation of the conditions would be acceptable in terms of affecting the reason for imposing the conditions originally. For example, condition 2 was imposed to ensure that the development proceeded in accordance with the approved documents/plans, and condition 4 was imposed to ensure that the flood lights were fitted with shrouds to ensure that the lights are not a source of nuisance to the occupants of nearby properties and to limit the impact of the conservation area and bats.

In this respect, it is noted that the wattage of the proposed LED lights would be higher than the light fittings, which were previously approved as part of application P/18/0345.

However, there would be less light spill from the new 665w lights. The light spillage plan provided with the approved application indicated a light spill of 5 lux across the front gardens of the neighbouring properties situated along Queens Road to the east of the site. The light spillage arising from the new LED lighting would be curtailed at 5 lux along the eastern periphery of the park, further limiting any disturbance to the neighbouring properties opposite. Additionally, neither the Environmental Health Manager nor the Head of Engineering have objected to the variation of the approved lighting. As such, it is recommended that the conditions on the permission can be varied.

Finally, the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following CONDITIONS

1. The development shall be carried out in accordance with the following approved plans and documents:
 - Plan: 1:1250 layout plan and 1:1 lighting column detail illustrated on Client drawing no 001, received 2nd November 2018;
 - Product leaflet: Lighting column, received 2nd November 2018;
 - Plan: Kingfisher Lighting Elevation Drawing, received 8th February 2022;
 - Light Spillage Plan: Kingfisher Tennis Block Plan, received 8th February 2022;
 - Product leaflet: Kingfisher Sport Amnis Match lighting specification detail, received 8th February 2022;
 - Kingfisher Lighting Obtrusive Light - Compliance Report, received 8th February 2022
 - Kingfisher Lighting colour temperature (2700k) detail, received 25th February 2022
 - Applicant's email confirming only LED light fittings are to be changed, received 18th February 2022

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

2. The floodlights shall only be illuminated from the hours of 4pm until 9pm Monday to Sundays.

Reason - To ensure that the floodlights are not a source of nuisance to the occupants of nearby properties and to limit the impact on the conservation area and bats in accordance with Policies EnW1, SW11 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.
All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. The proposed lighting should conform to the ILP/BCT guidelines (<https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>).

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

28/3/22