

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 26 JANUARY 2016

**PLANNING APPLICATION – TENNIS COURTS AND PAVILION, WARRACK TERRACE,
MONTROSE**

Grid Ref. No: 371910 : 758490

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No. 15/01118/FULL for the proposed change of fencing detail and erection of four floodlighting columns for Montrose Tennis Club at Montrose Tennis Courts and Pavilion, Warrack Terrace, Montrose. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/
CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 The applicant seeks planning permission for the proposed change of fencing detail and erection of four floodlighting columns associated with two mini tennis courts at Montrose Tennis Courts and Pavilion, Warrack Terrace, Montrose.

3.2 The application site is situated within the northmost section of the Mid Links, an expansive area of Victorian parkland / public open space amidst a predominantly residential area to the east of the town centre. The tennis courts / pavilion are located between Provost Scott's Road and Warrack Terrace, some 100 metres or so north of Dorward Road. The Mid Links is linear in form, accommodating both informal and sporting recreational uses as well as providing a valuable area of green amenity space for the town. The application site is located within the boundary of Montrose Conservation Area.

3.3 The application proposes the change of fencing detail and erection of four floodlighting columns associated with two mini tennis courts two mini tennis courts. The two mini tennis courts are located in a section of the existing Montrose Tennis Club's site between two existing full sized courts and to the west of the tennis Pavilion. The change in fence detail provides for a minor change to allow for the chainlink fence to return along the side sections of the courts for a distance of 2 metres at the corners at a height of 2.75 metres in height. The floodlighting element of the proposal provides for the erection of four floodlights positioned at the four corners of the two mini tennis courts. The four floodlights will be positioned on four six metre high lighting columns.

3.4 The proposal has been advertised in the press as required by legislation.

- 3.5 The proposal has been varied through the submission of an Amended Proposed Sections Plan and Block Plan which was provided on 12 January 2016. The plans provide for the repositioning of the four floodlights 200mm from the fencing proposed around the mini tennis courts.
- 3.6 This application requires to be determined by the Development Standards Committee as Angus Council has a financial interest in the property as owner and the application has been the subject of objection.

4. RELEVANT PLANNING HISTORY

There have been a number of applications relating to the tennis club over a period of years mainly relating to the provision of floodlighting (07/01650/FUL and 12/00960/FULL refer) and the mini tennis courts (14/00711/FULL refers).

5. APPLICANT'S CASE

Supporting information has been submitted relating to details of the floodlights proposed. It contains general information relating to the floodlights and calculations of light spill.

In addition the applicant has submitted correspondence which confirms that the proposed fence surrounding the courts would match the existing fencing which is coated chain link fencing finished in green. The lighting columns would be standard lighting columns with a diameter at their base of approximately 170mm, and a thinner top section of approximately 70mm. The columns would be galvanised steel similar to the other floodlight columns serving the main courts.

6. CONSULTATIONS

- 6.1 **The Roads Service** - has no objections.
- 6.2 **Scottish Water** - there was no response from this consultee at the time of report preparation.
- 6.3 **Community Council** - there was no response from this consultee at the time of report preparation.
- 6.4 **The Environmental Health Service** – has no objection subject to conditions relating to hours of use and light spill.

7. REPRESENTATIONS

Three representations have been received in respect of the application. The letters express objection to the proposal. The correspondence will be circulated to Members of the Development Standards Committee and copies will be available to view in the local library and on the council's Public Access website.

The main points of concern are as follows:

- **Concern that the proposal will result in further and greater light penetration to the front of the objector's property** - This issue is discussed further in Section 8: Planning Considerations.
- **Concern that the proposal will impact on parking, road safety and traffic with associated amenity impacts** - This issue is discussed further in Section 8: Planning Considerations.
- **Visual appearance and compatibility** - This issue is discussed further in Section 8: Planning Considerations.
- **Timing of applications and scheduling of works** - This issue is discussed further in Section 8: Planning Considerations.
- **Impact on existing soft landscaping and trees** – This issue is discussed further in Section 8: Planning Considerations.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard shall be paid to the desirability of preserving the building or its setting.
- 8.3 As the application for planning permission also relates to subjects within a conservation area, namely the outstanding Montrose Conservation Area, Section 64(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in determining this application.

Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and subsequently published for a statutory period for representations. The statutory period for representation has now expired and unresolved representations have been submitted to Scottish Ministers for consideration at an Examination. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP(June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to policies and proposals of the plan that are subject to unresolved objection. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation or decision.

- 8.4 In this case the development plan comprises:-
- TAYplan (Approved 2012)
 - Angus Local Plan Review (Adopted 2009)

The application is not strategically significant and therefore the policies of TAYplan are not referenced. The relevant policies of the Angus Local Plan Review are reproduced at Appendix 2 to this report.

- 8.5 As indicated above this application relates to the change of fencing detail and erection of four floodlighting columns associated with two mini tennis courts. Accordingly the key issues in relation to this application are whether the proposed development accords with relevant Local Plan policies and whether there are any material considerations to be taken into account.
- 8.6 The application site is situated within an area which is identified in the Angus Local Plan Review as public open space. Policy SC31 provides general support to the improvement or enhancement of sport and recreational facilities subject to a number of criteria. The proposed development is related to the improvement of the tennis facilities and is located within the fenced confines of the existing tennis courts. The floodlights and fence detail would serve two mini tennis courts located in front of the tennis pavilion and positioned between two larger areas containing full size tennis courts. Accordingly, the nature of the proposal is acceptable at this location and the general principle of the development is supported by policy. Issues in relation to the scale of the proposal and impact on residential amenity are discussed below as are issues in relation to compatibility with other local plan policies.
- 8.7 The key considerations relate to the impact of the development on the residential amenity of those that live in the area and to its impact on the conservation area.
- 8.8 In relation to residential amenity, Policy S6 of the local plan and its accompanying Schedule 1 indicate that the amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and

vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic. It also indicates that proposals should not result in unacceptable visual impact. The letters of representation raise concerns regarding light pollution, pedestrian/vehicular movements, visual appearance, landscaping and the timing of applications/works. The Environmental Health Service has examined the technical information supplied by the Club's Lighting Consultants and concluded that the development would not cause significant light pollution subject to the light spill from the floodlights being controlled. Similarly it is indicated that noise pollution should not be significant subject to the hours of operation of the floodlights being restricted. This would reflect conditions attached to the permission for the flood lighting of the tennis courts to the south of the pavilion.

- 8.9 The letters of representation raise concerns regarding increased activity and suggest that additional pedestrian/vehicular movements and parking issues could be detrimental to amenity as well as road safety. It is recognised that the proposal may result in some increased vehicle movements and on-street parking; however, the public roads have capacity to accommodate vehicles and this is an area where some on-street parking is permitted. I have discussed the matter with the Roads Service and it is not considered that the proposal would significantly affect road traffic or pedestrian safety. Similarly, I do not consider that additional pedestrian movement, traffic or parking associated with extending the opening hours of the two mini tennis courts would significantly affect the amenity of the area. Current arrangements provide for those using the tennis court facility to park on Warrack Terrace (to the east of the tennis courts) or on Provost Scott's Road/Dorward Place (to the west of the tennis courts). This situation would continue and there is no justification to control that matter in relation to an application for the provision of floodlighting and alteration of fencing .
- 8.10 Policy ER12 relates to development affecting conservation areas and indicates that proposals will be supported where they respect the character and appearance of the area, contribute positively to the setting of the area and maintain important views, retain particular features which contribute to the character of the area and accord with the character statement for the area. Policies of the local plan also seek to promote a high design standard and to ensure that proposals do not give rise to unacceptable visual impacts. In this instance the proposed change in fence detail and floodlights would be located within the wider Montrose Tennis Club site which is visually separated from the surrounding area by a chain link fence. The proposal would serve two mini tennis courts located in a section of the existing Montrose Tennis Club's site between the two existing full sized courts and to the west of the tennis Pavilion. The formation of a comparatively minor additional sections of fence and positioning of four floodlighting columns within the wider tennis club site will have little if any adverse impact on the appearance of the conservation area. The application for the provision of the two mini tennis courts provided for the removal of shrubs as a consequence of the development; however, they were relatively small and contributed little to the overall character or appearance of the mid links area. Similarly, as this is an area that is currently used for active leisure purposes the provision of additional floodlighting in association with the two mini courts would not have a detrimental impact on the character of this part of the conservation area. The development will have no significant impact on the setting of listed buildings in the area.
- 8.11 Concern has been noted in respect of the timing of applications and the scheduling of works on the site. The timing of the submission of applications is at the discretion of the applicant and the Service is not aware that any works that have been undertaken without planning permission.
- 8.12 In conclusion, the proposal will provide for improvement of existing tennis facilities in a manner that will not give rise to any significant adverse impacts on the amenity or appearance of the area. Whilst I note the concerns raised in the submitted representations, these do not give rise to issues that would justify refusal of the application. In this case the proposal complies with development plan policy and there are no material considerations that justify refusal of the application contrary to the provisions of the development plan.
- 8.13 The Council has a financial interest in this application. However, as the proposal is not significantly contrary to development plan policy, there is no requirement to notify the Scottish Ministers of the Council's intention to approve the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that the application be approved for the following reason and subject to the following conditions:

Reason(s) for Approval:

That the application will provide improvements to existing sporting/ recreational facilities in a manner that complies with relevant policies of the development plan and there are no material considerations that justify refusal of the planning application contrary to the provisions of the development plan.

Conditions:

1. That the hours of operation of the floodlights be restricted to 0830 - 2200 hours, Monday to Sunday inclusive.

Reason: In order that the amenity of occupants of nearby premises shall be adequately safeguarded.

2. That the light spill from the floodlights shall not exceed 10 Lux, as measured flat on the glazing at the centre of the window of any habitable room. In the event that light spill exceeds this level the use of the lights shall cease until such time as measures to reduce light spill to the approved level as approved by the Planning Authority are implemented.

Reason: In order that the amenity of occupants of nearby premises shall be adequately safeguarded.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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DATE: 15 JANUARY 2016

Appendix 1 : Location Plan

Appendix 2 : Relevant Development Plan Policies

Location Plan, 1:1250



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DEVELOPMENT PLAN POLICIES AGAINST WHICH THE PROPOSAL HAS BEEN ASSESSED

Angus Local Plan Review 2009

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:-

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S6 : Development Principles (Schedule 1)

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

(a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.

(b) Proposals should not result in unacceptable visual impact.

(c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC31 : Sports and Recreation Facilities

Development proposals for new and/or enhanced sport and recreational facilities should be located within the existing development boundaries, unless requiring a countryside location. Proposals will be supported where they:

- would significantly improve the range and/or quality of sport and recreational opportunity; or
- would meet an identified community need; and
- are of an appropriate scale and nature, and in a location which would not have a significant detrimental impact on residential amenity;
- would accord with other relevant policies of this Local Plan.

Policy SC32 : Open Space Protection

There is a general presumption against development of open spaces of sporting, recreational, amenity or nature conservation value including those shown on the Proposals Maps, for other forms of development. The loss of open space will only be considered acceptable where:

- the retention or enhancement of existing facilities in the area can best be achieved by the redevelopment of part of the site where this would not affect its sporting, recreational, amenity or nature conservation value or compromise its setting; or
- replacement open space of the same type and of at least equal quality, community benefit and accessibility to that being lost will be provided within the local area; or
- it is demonstrated through an open space audit that there is an identified excess of open space provision in the local area to meet existing and future requirements taking account of the sporting, recreational and amenity value of the site.

Policy ER10 : Light Pollution

Where developments incorporate exterior lighting, Angus Council will require designs which minimise light spillage through use of low pressure sodium lights, full cut-off lanterns and other measures as appropriate. Where floodlighting is needed for sports pitches, golf driving ranges etc, it should be directed and hooded in such a way that the light source is not seen from any neighbouring properties, roads, or paths.

Policy ER12 : Development Affecting Conservation Areas

Development proposals within conservation areas or affecting the setting of such areas will be supported where they:

- (a) respect the character and appearance of the area in terms of:
 - density, scale, proportion and massing;
 - layout, grouping and setting;
 - design, materials and finish;
- (b) contribute positively to the setting of the area and maintain important views within, into or out of the area;
- (c) retain particular features which contribute to the character and appearance of the area:
 - open spaces;
 - walls and other means of enclosure;
 - ground surfaces;
 - natural features such as trees and hedgerows;
 - accord with the Character Statement for the area.