

Perth and Kinross Council
Development Management Committee – 21 August 2013
Report of Handling by Development Quality Manager

Formation of synthetic grass sports pitch, with 5m high fenced enclosure and 8 floodlights at Perth Academy, Murray Place, Perth

Ref. No: 13/00723/FLL

Ward No: 10 - Perth City South

Summary

This report recommends approval of the application for the installation of a new multi-use synthetic grass sports pitch with flood lighting at Perth Academy as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

1. This application was previously considered by this Committee at its meeting on 17 July 2013 (Report 13/356). A copy of the previous Committee Report is appended to this report for information (Appendix 1).
2. The deferral was to allow further clarification on the Tree and Woodland Officer's assessment of the Scots Pine which is located within the application site and for an update on the request for the promotion of a Tree Preservation Order on said tree. These aspects are further discussed in the appraisal section of this report.
3. All other issues in relation to the application remain the same.

CONSULTATIONS

4. During the deferral process, further discussion took place between the case officer and the Council's Greenspace Policy Officer (Trees & Woodlands). The Tree and Woodland Officer confirmed he had nothing to add to his previous comments which confirm the tree to be "a very important tree due to its age, history, location, condition and contribution to landscape quality and biodiversity". It remains that officer's opinion that the applicant should make every effort to come up with a revised layout which would allow retention of the tree.

REPRESENTATIONS

5. As no re-notification has been carried out there have been no further valid notifications received as a result of the deferral. All representations associated with the original application are as detailed in the previous Committee Report.

TREE PRESERVATION ORDER REQUEST

- 6 A request for the Council to consider the promotion of a Tree Preservation Order (TPO) was received by Perth and Kinross Council on 5 July 2013. After careful consideration the conclusion was reached that an Order would not be promoted in this particular case. This decision was made on the grounds that, although this Scots Pine has a degree of historic interest and biodiversity value, the primary factor to be considered under the Council's approved evaluation criteria is visual amenity value. As the tree is located in an area where there are many high quality trees, notably the mature trees which line the boundary of the school grounds along Viewlands Road and Fairies Road and within close proximity in the school grounds, it was the view that the potential loss of the Scots Pine would not have a significant impact on the local environment and its enjoyment by the public.

ADDITIONAL STATEMENTS

- 7 All original additional statements remain valid; reflected in the original Committee Report, detailed in Appendix 1.

APPRAISAL

- 8 The original Committee report recommended that planning permission be granted for the development of a new multi-use synthetic grass sports pitch with flood lighting. That recommendation was reached after careful and detailed consideration of all the relevant planning issues.
- 9 It is acknowledged that the Council's Tree and Woodland Officer considers the Scots Pine to be an important example in tree terms. The suggestion that a revised scheme which would allow retention of the tree should be considered is noted however it remains the duty of the Planning Authority to determine the planning application as submitted, whether or not there may be alternative schemes which may or may not be more widely supportable.
- 10 Whilst it remains unfortunate that the Scots Pine would be lost as a result of the proposed development, the tree has no statutory protection. It is therefore the decision of the landowner whether to retain or to fell the tree. The presence of the tree cannot therefore be taken as a determining factor in terms of the consideration of this planning application. The fundamental planning consideration of the proposed development has to remain whether the proposal is in accordance with the Development Plan and whether there are any material planning considerations which direct determination contrary to the Development Plan.
- 11 The proposals as submitted to the July Committee continue to be recommended for approval.

LEGAL AGREEMENTS REQUIRED

- 12 No legal agreement is required for this proposal.

DIRECTION BY SCOTTISH MINISTERS

- 13 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, 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

- 14 It is concluded that appropriate consideration has been taken of the Committee's reasons for deferral of the application in relation to the tree within the application site.
- 15 The clarification that the deferral process has brought has shown that whilst the tree is considered to be a very fine specimen its potential loss is not considered to have a significant impact on the local environment and its enjoyment by the public. This conclusion has therefore not altered the planning considerations relevant to this application under consideration and thus my recommendation remains the same.
- 16 In planning policy terms, the proposed development remains in accordance with the adopted Perth Area Local Plan 1995. There remain no material considerations that would justify refusing the application. On that basis the application continues to be recommended for approval subject to conditions.

Recommendation

A Approve subject to the following 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.
- 2 Prior to the commencement of development the details and specification of the fencing surrounding the sports pitch shall be submitted to and approved in writing by the local Planning Authority in consultation with the Environmental Health section. The specification shall specifically address a design that shall reduce noise when struck by balls. Thereafter the approved specification shall be implemented and maintained all to the reasonable satisfaction of the local Planning Authority.
- 3 The floodlighting associated with the new multi purpose sports pitch shall only be operational between 08.00 hours to 22.00 hours Monday to Sunday.
- 4 All floodlighting associated with the new multi purpose sports pitch shall be installed and aligned to the satisfaction of the local Planning Authority in consultation with the Environmental Health section so as to ensure that light spillage beyond the boundaries is minimised and maintained as such.

- 5 Prior to the commencement of works on site, details of a replacement tree of an appropriate species and size shall be submitted to the Council as Planning Authority for further written agreement. The replacement tree shall be located within the school grounds in such a position as to be able to accommodate the memorial seat and plaque at its base. Should the tree fail to become established within five years it shall be replaced in the following planting season with another of a similar size and species to the satisfaction of the Council as Planning Authority.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 To ensure appropriate mitigation measures are put in place to reduce noise thereby safeguarding the amenity of the nearby residential properties.
- 3 To protect the residential amenity of the locality.
- 4 To ensure the local Planning Authority can maintain effective control over the development.
- 5 To ensure the biodiversity of the site is maintained.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations which would justify a departure therefrom.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure

(Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
- 4 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

Background Papers: 41 letters of representation,
Development Management Committee report dated 17 July 2013, Development Management Committee Agenda dated 17 July 2013, Development Management Committee dated 17 July 2013 - Minute no. 4(2)(vi) 13/356.

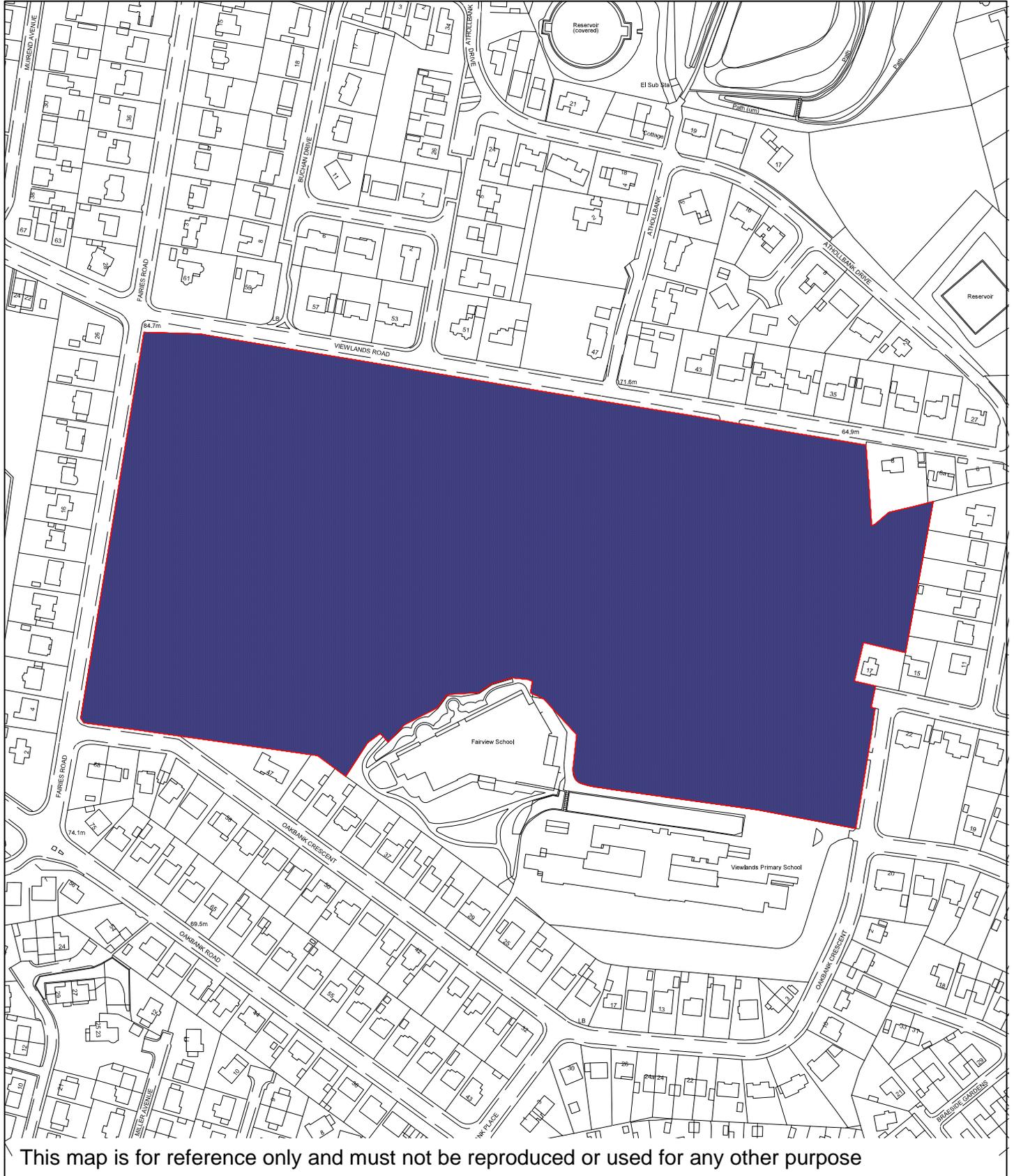
Contact Officer: Christine Brien – Ext 75359
Date: 7 August 2013

Nick Brian
Development Quality Manager

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Perth and Kinross Council
Development Management Committee – 17 July 2013
Report of Handling by Development Quality Manager

Formation of synthetic grass sports pitch, with 5m high fenced enclosure and 8 floodlights at Perth Academy, Murray Place, Perth

Ref. No: 13/00723/FLL
Ward No: 10 - Perth City South

Summary

This report recommends approval of the application for the installation of a new multi-use synthetic grass sports pitch with flood lighting at Perth Academy as the development is considered to comply with the Development Plan.

Background and Description

1. The proposal is to form a synthetic grass sports pitch within the grass playing field area which lies to the west of Perth Academy School building. The pitch is proposed to be 65m by 99m within a fenced enclosure 70m by 105m. The surrounding fence is proposed to be 5m high. Eight floodlighting columns are also proposed as part of the development with the columns being 15m high.
2. The agent has confirmed that the need for this facility was identified in the school estate review which recognized practical teaching areas and sport as a priority for the Council, thus making the proposal a strategic priority of Education and Children's Services as well as for the school. The proposed synthetic grass sports pitch has secured funding through the Council's capital programme and would go some way to improving the sporting facilities at the school, resulting in better provision of educational and extra curricula sporting activities.
3. The location of this facility could also have additional benefits to the wider community as it is ideally located to cater for recreational needs of residents in the North West of Perth. The proposed letting policy would give the school use of the synthetic pitch subject to the Council's agreed Code of Practice. The hours of operation are intended to be 8am to 10pm.

National Policy and Guidance

4. The Scottish Government expresses its planning policies through the National Planning Framework 1 & 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

The Scottish Planning Policy 2010

5. The SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.

6. The following sections of the SPP are of particular importance in the assessment of this application:
 - Paragraphs 196 - 198 Flooding and Drainage.
 - Paragraphs 149 - 158 Open Space and Physical Activity

7. The following Scottish Government Planning Advice Notes (PAN) are also of interest:
 - PAN 01/2011 Planning and Noise
 - PAN 79 Water and Drainage

Development Plan

8. The Development Plan for the area consists of the TAYplan 2012 and the Adopted Perth Area Local Plan 1995.

Tayplan Strategic Development Plan 2012-2032 June 2012

9. There are no strategic policies of relevance to this application.

Perth Area Local Plan 1997

10. Under the Local Plan the site lies within the settlement boundary of Perth in an area identified for residential and compatible uses.

The principal relevant policies are in summary: -

Policy 41: General Residential and Background Policies:

11. Proposals Map B identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved. Where sites in other uses become available for development, housing will generally be the most obvious alternative use. Some scope may exist for infill

development, but only where this will not significantly affect the density, character or amenity of the area concerned. Small areas of private and public open space will be retained where they are of recreational or amenity value to their surroundings. Change of use to hotel, boarding and guest house use will be permitted normally only on the main radial routes in the city.

Policy 52: General Open Space Policy

12. Proposals Map B identifies areas of public and private open space and recreation, which are to be retained. Any development proposals, which erode these areas, will be resisted. Encouragement will be given to proposals that would improve these areas.

Perth and Kinross Proposed Local Development Plan 2012 (PLDP)

13. On the 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. It has recently undergone a period of representation, the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application, reflecting a more up to date view of the Council. The most relevant policies of the above plan are:
14. **Policy PM1 Placemaking** – Development must contribute successfully to the quality of the surrounding built and natural environment
15. **Policy CF1 Open Space** – Development proposals resulting in the loss of these areas will not be permitted, except in certain circumstances.

Other Policies

16. None.

Site History

17. None.

Consultations

18. **Scottish Water:** No objection.
19. **Environmental Health:** No objection to the application subject to conditions.

Representations

20. Forty-one letters of representation have been received within the statutory period, with more than one letter from a single household on occasion, and

some from outwith the school catchment area. The following issues were raised:

- Residential amenity (noise and light pollution)
- Loss of tree, which is surrounded by a seat with a memorial plaque
- Loss of biodiversity
- Potential impact on bat roosts
- Visual impact of fence
- Lack of justification
- Lack of landscaping mitigation
- No assessment of alternative locations
- Lack of need – existing artificial pitch
- Hours of use
- Proximity of fence to school building
- Potential disturbance during construction
- Proposal should be changed in order to retain tree

21. These issues are addressed in the Appraisal section of this report.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	None submitted.

Appraisal

22. 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.
23. The key determining issues are (1) whether the proposal is consistent with the relevant provisions of the Development Plan, (2) whether there are any factors that would justify a potential departure from the Development Plan.
24. In this instance the proposals are seeking to construct a high quality floodlit all weather multi use sport pitch. The location is towards the centre of the wider playing field area, away from the boundaries of the school site where they meet residential uses. An existing football pitch and a hockey pitch will be lost due to the siting proposed. The proposed synthetic pitch is to be used mainly for hockey but can also be used for an extensive range of other outdoor sports.

The development will meet the educational needs of the school while the proposed letting policy has the potential to allow the pitch to become an important community asset. It is worth highlighting that Scottish Government's SPP confirms that playing fields are an important resource for sport and should be provided in sufficient quantity, quality and accessibility to satisfy current and likely future community demand. It specifically confirms in paragraph 158 that for many sports and recreation developments locations within or close to residential areas will be the most appropriate.

25. General Open Space Policy 52 of the Perth Area Local Plan is also an important consideration in the assessment of this development. This policy specifies that there is a presumption in favour of retaining public and private open space and recreation and any proposals that erode these areas will be resisted. It also states that the Council will seek to encourage proposals that improve these areas. In this case it is considered that the proposals are in accordance with this policy in that the development of an all weather pitch will improve the facilities at Perth Academy for both the school and wider community.

Residential Amenity:

26. Notwithstanding the positive support provided by the Development Plan, there is a need to ensure that a suitable level of residential amenity is maintained for the neighbouring dwellings. Planning control has a duty to future occupiers not to create situations of potential conflict between neighbouring uses. This is entwined into Policy 41 of the Local Plan which seeks the retention and where possible the improvement of residential amenity. The main impacts on residential amenity are noise, lighting and hours of operation.

Noise

27. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development.
28. Consultation with Environmental Health confirmed that they have no power to deal with general noise caused by people attending or participating in events. They have highlighted that the existing site is already used for sporting activities and therefore a restriction on hours of use of the proposed facility is considered to be unreasonable. A restriction on the hours of use of the illumination is the appropriate method of control in this instance. It is acknowledge that balls striking the proposed fencing have the potential to be an issue and further clarification should be sought. A negative suspensive condition can ensure this matter is investigated further and that a suitable design is used to limit the impact. The agent has subsequently indicated that the same techniques for dulling the rebound noise employed at other recent multi sports pitches will be used here but a condition can ensure the most appropriate technique is used.

Floodlighting:

29. Floodlighting has to be designed to allow a certain amount of illumination on a pitch to enable effective play to occur. This proposal includes the installation of eight 15 metre high light columns. The closest residential property boundary is over 70 metres from the lighting columns. The submitted lighting plan clearly shows the extent of the light spill and that it will be contained within the wider sports field area with none overlapping neighbouring residential premises. This and an appropriate condition requiring the lights to be screened and aligned so as to prevent direct illumination of neighbouring land will ensure there is no detrimental impact on residential amenity from the proposed floodlights.
30. The hours of illumination are also a crucial factor to the assessment of residential amenity and this issue is discussed in greater detail below.

Hours of use associated with floodlighting/use by the community:

31. Presently there is an element of interaction between the existing school playing fields and the neighbouring residential properties which is effectively limited by hours of daylight that varies throughout the year. The proposed illumination of the proposed facility would change the existing situation and allow an intensification of use in the evenings between autumn and spring enabling the facility to be potentially let until 10.00pm at night.
32. The Council has a responsibility to provide, where possible, the local community access to good quality recreational spaces to aid health and wellbeing. However, it is clear that this responsibility should not be to the detriment of neighbouring residents.
33. The concern expressed in the letters of representation about the continued use of this facility until 10.00pm throughout the year is relevant and it is acknowledged that there would be a change to the character of the area which may affect the amenity enjoyed by the occupants of the neighbouring properties. The potential to cause harm to the established residential amenity of the area could be mitigated by controlling the hours of illumination, if considered necessary. Environmental Health colleagues initially recommended restricting the hours of illumination to between 08.00 and 20.00 hours, however, given the existing use of the site and the distance of the proposed lights from the closest residential properties, I consider this to be overly restrictive. After further discussion with Environmental Health it has been agreed that the hours of use of the floodlights could be extended to the desired 08.00 to 22.00hrs without necessarily having any detrimental impact subject to the condition requiring appropriate screening and alignment of the lights being attached to any permission.
34. The nearest residential properties are located some 60m from the proposed pitch (70m to lighting columns), to the north side of Viewlands Road. Given this separation and the current playing fields and pitches being only some 5m from some residential boundaries, I do not consider that there would be any

significant detrimental impact on residential amenity subject to the conditions proposed.

Loss of Tree

35. The scheme currently under consideration would require the felling of a single Scots Pine located within an open area of the playing fields. The tree recently became a symbol of a memorial to two pupils who tragically died in a road accident. Pupils raised money to provide a seat with a plaque. The tree itself is thought to pre-date the school building, as do the other trees in the grounds and defining the boundaries of the playing fields.
36. The tree does not have the benefit of any special protection in law: it is not covered by a Tree Protection Order nor is it located within a Conservation Area. As such, the tree could be felled at any time. Felling the tree is outwith the control of the Planning Authority. This must be borne in mind in this particular instance.
37. The question of the tree as a potential as a bat roost was raised in the representations. The agent has submitted a Bat Report which concluded that the tree, along with three beech trees closer to the school building, had no features which would provide features that would provide suitable conditions for use by roosting bats. No further survey, mitigation or compensation for roosting bats was considered necessary. The Council's Biodiversity Officer agrees with the Report findings.
38. I would suggest that a suitable replacement tree of an appropriate size and species could be located elsewhere within the school grounds and the memorial bench and plaque positioned at this location. A condition requiring the planting of such a tree will ensure the biodiversity of the site can be retained and will allow the memorial seat and plaque to be relocated within the school grounds beside the tree.

Alternative Schemes

39. It has been suggested in the representations that there is no requirement for a pitch as proposed due to the presence of an existing synthetic pitch. The existing pitch measures some 60m by 34m, which is significantly smaller than the pitch now required (65m by 99m). There is no opportunity to extend the existing pitch due to land constraints. The existing pitch lies only some 25m from neighbouring residential properties and floodlighting would have a significant impact in such circumstances.
40. A number of alternative schemes were considered by the applicant and agent prior to the submission of this application. Four options were considered in detail with the conclusion being agreed by the school that the current option was the most satisfactory as it had less impact on neighbours, redeveloped poor draining land and was closest to the existing changing facilities. It also meant the competition-ready rugby pitch to the west could be retained. It was accepted by the applicant that the chosen scheme required the loss of the tree.

- 41 It must be remembered that the requirement of the planning legislation is that the planning authority must consider whether or not the application as submitted is supportable in itself. Whether or not there is a better solution is not a determining factor if the submitted proposal is acceptable. It is, on occasion, possible to request minor changes to a scheme where the applicant is agreeable to this. The applicant has made it clear that they wish the application as submitted to be determined.

Landscaping

- 42 Given the open nature of the playing field area, which includes levelled pitches bounded by grassed banks, planting to partially screen the proposed pitch would appear incongruous in the setting. I do not consider any screen planting to be appropriate or necessary in this instance.

Visual Impact

- 43 The proposed enclosure fence is shown to be 5m high in its entirety. This has raised concerns in the representations based on the potential visual impact. In order to mitigate against this the agent has suggested that, as the pitch is to be used predominately for hockey, the fence height could be reduced to 3.5m along the long sides of the enclosure as the pitch is located within the middle of the playing fields. I consider this to be unnecessary as the visual impact of the fence will be minimal as it will be seen within the context of the wider playing fields and is to set at significant distances from the site boundaries. Additionally, the reduced height in some areas could cause a difficulty when the pitch is being used for sports and activities other than hockey.

Disturbance during Construction

- 44 Whilst construction of the development may have an impact on properties in the surrounding area, the works will be short-term and small-scale. It is not appropriate to limit the hours of construction

Planning Authority with an Interest in the Land

45. 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

46. None required

Direction by Scottish Ministers

47. Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, 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

48. Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. It is clear that the primary intention of both the Development Plan and national policies are to ensure sufficient quantity, quality and accessibility to playing fields to satisfy current and likely future demand.
49. For the reasons set out in this report above it is considered that identified adverse impacts on residential amenity can be mitigated through conditional control to ensure the benefits of this scheme to pupils at Perth Academy and the wider community are released. Whilst the loss of the tree and the siting of the memorial seat are considered to be unfortunate and disappointing to many people, this cannot be taken as a material planning consideration which outweighs the primacy of the Development Plan. My suggestion of a replacement tree along with the relocation of the seat and plaque to an appropriate location within the school grounds may go some way to alleviate those concerns.

Recommendation

A Approve

- 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.
- 2 Prior to the commencement of development the details and specification of the fencing surrounding the sports pitch shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environmental Health section. The specification shall specifically address a design that shall reduce noise when struck by balls. hereafter the approved specification shall be implemented and maintained all to the reasonable satisfaction of the Local Planning Authority.
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Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 To ensure appropriate mitigation measures are put in place to reduce noise thereby safeguarding the amenity of the nearby residential properties.
- 3 To protect the residential amenity of the locality.
- 4 To ensure the Local Planning Authority can maintain effective control over the development.
- 5 To ensure the biodiversity of the site is maintained.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations which would justify a departure therefrom.

C PROCEDURAL NOTES

None

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
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Background Papers: 41 letters of representation
Contact Officer: Christine Brien – Ext 75359
Date: 26 June 2013

Nick Brian
Development Quality Manager

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