

ITEM No. 6 (e)

Report No 515/97

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

6 MAY 1997

SUBJECT: PLANNING APPEAL DECISION
DORWARD PLACE/WARRACK TERRACE, MONTROSE

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report presents the findings of the Reporter appointed by the Secretary of State to determine the appeal against the refusal of Angus Council to grant consent for the installation of floodlights for tennis courts at the Mid Links, Montrose.

1 RECOMMENDATION

It is recommended that the Committee notes the outcome of the above appeal.

2 INTRODUCTION

- 2.1 The Development Control Committee at the meeting on 23 May 1996 refused Planning Permission for the installation of floodlighting on some of the tennis courts on the Mid Links, Montrose (01/96/0249).
- 2.2 The applicant Dr W N Duff for Montrose Tennis Club appealed against the refusal and the Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

- 3.1 In defining the determining issues in this appeal, I note that neither the planning authority or the appellant have made reference to any policies in the development plan framework. In this situation, the provisions of section 18A of the Act do not come into play.
- 3.2 On the basis of the written submissions and the site inspection, I consider that the determining issues in this appeal are whether the proposal would accord with Angus Council's Advice Note 17 "Miscellaneous Planning Policies" that sets out the test that any development within a conservation area should preserve and enhance the quality of the conservation area (a test that mirrors the provisions of both section 262(8) of the Act and paragraph 4.10 of the Memorandum); and, if it does, whether there are other relevant planning reasons that would justify a refusal of consent.
- 3.3 Prior to addressing the determining issues, I note that the appeal site is part of a tennis club that has been in existence for over 70 years and is one of 3 recreational uses within the Mid Links open space (the others being a bowling club of comparable vintage and a modern complex of children's play equipment). The tennis club has some 130 members, a 1920's pavilion and 6 courts (which allow a maximum of 24 players to participate at any one time). There is ample street parking in the vicinity

and there is no record of any complaints being lodged in relation to noise, road safety or other activities. It is clear that the tennis club wishes to upgrade the 3 southern courts to modern standards by installing the lighting at appeal, together with the replacement of the old blaes surface with "savanna" artificial grass and the erection of new fencing.

- 3.4 The submissions and the site inspection show that, whilst residential uses predominate along the elongated eastern and western boundaries of the Links, there are also a wide range of other uses that generate equal or greater levels of activity in the evening periods when the proposed floodlights would be in operation. The most relevant land use in this context is the Montrose Football Club where up to 1,000 persons attend professional matches held under much larger and more visually intrusive lighting than is proposed at the tennis club. Although I accept that the football ground lies some 60 metres outwith the conservation area boundary, the combination of the physical scale of the lighting towers, the number of individual lights and the intensity of the bulbs in such that they can be readily observed from a wide areas. In addition, popular evening events close to the Mid Links are held at the Academy, at 2 hotels and at an auction house, thereby creating constant comings and goings, the parking of cars and the passage of headlights on both of the roads that abut the open space. Drawing these factors together, it is apparent that, by virtue both of its location relatively close to the town centre and by having a wide range of uses within and adjacent to its boundaries, the Mid Links is characterised by a constant and changing pattern of activity throughout the day and in the evening. This framework reflects the original purpose of the open space in providing a multi-purpose public facility for local residents, together with a passive role of providing an attractive park area within the urban fabric.
- 3.5 Turning to the first determining issue, I regard the specific factors that should be addressed as being the visual impact of the proposed lighting columns; the effect that the proposed floodlights would have upon nearby housing; the likely change in the pattern of use of the 3 tennis courts that would result from the proposed development; and the combined impact that the proposal at appeal would have upon the amenity of the outstanding conservation area. With regard to the visual impact of the 8 metre high lighting columns, I note that careful measurements have been undertaken of other structures in the immediate vicinity. This study shows that the tallest features are the 3 nearby trees (a sample of many comparable mature specimens both within the Mid Links and in nearby gardens) at some 13, 14 and 14.6 metres. Thereafter, the chimneys and eaves of the nearest house measure close to 10 and 8 metres respectively, followed by the typical heights of the 4 different designs of lamp standard identified during the site inspection (which vary from 5.44 to 6.32 metres). The tennis club pavilion has a full height of 6.05 metres.
- 3.6 When assessed against the above heights, I consider that the proposed slim lighting columns with twin lights would not represent an incongruous or unacceptable feature in that they would be lower than the many nearby trees and the chimney features of the nearest houses. Moreover, given the regular spacing of the roadside lamp standards along both the western and eastern boundaries of the Mid Links, I find that tall, slender structure around 6 metres in height are a common feature of most views in the vicinity of the appeal site. In addition, I note that the appeal proposal would create a modest pool of light when compared with the much higher lighting towers

with their concentrated ranks of bulbs at the Montrose Football Club. This professional facility is some 300 metres distant from the tennis club; is readily visible from the Mid Links; and operates for extended periods on many evening in the winter period.

- 3.7 Turning to the effect that the proposed floodlights would have upon nearby land uses, I note that careful measurements have been undertaken of the distance of nearby houses from the appeal site. This study shows that the nearest house is 22 metres from the closest section of the tennis courts, with a further 3 dwellings within 25 metres, 8 within 50 metres and 50 within 100 metres. At 22 metres the 500 to 600 LUX within the playing area of the tennis courts would have decreased to 6 to 7 LUX through a combination of shields on the lamps themselves and the distance involved. A 6 to 7 LUX is recorded as being roughly twice the level of moonlight and any impact would be heavily diluted by a combination of the many street lights in the vicinity, the headlights of passing cars on both sides of the Mid Links and lights sources within the individual houses themselves (all of which are typical of the constant skyglow present in most urban areas), I find that the proposed lighting with its modest twin light display per column for the 3 tennis courts would not adversely affect the amenity of nearby housing. In reaching this view, I have taken into account the fact that residents normally pull curtains in the evening, thereby masking the full effect of any outside light source and that the council's environmental health department, having assessed the proposal, did not object to the floodlights subject to the imposition of appropriate conditions.
- 3.8 In relation to the likely impact upon the character of the area that would arise from a changed pattern of use within the floodlit courts, I note that a maximum of 12 players could use the 3 illuminated courts at any one time (the other 3 courts would not benefit from any form of lighting). Moreover, your club accepts that no play should take place after 10.00 pm in the summer and 9.00 pm in the winter (or before 8.00 am in the morning), thereby providing a clear cut, monitorable limit to activity within the courts. Given the identified commercial, educational and recreational uses that either abut or are close to the Mid Links (many of which generate considerable movement after 10.00 pm and attract numbers far in excess of the 3 tennis courts at appeal), I find that the likely pattern of use of the appeal site would not create any significant change in the current character of the area.
- 3.9 Finally, turning to the cumulative impact of the proposed development upon the amenity of the outstanding conservation area, the submissions and the site inspection show that the Mid Links has a long history of accommodating a wide variety of recreational pursuits, together with its passive role of creating a pleasing urban open space. The nearby bowling club (which was founded at the turn of the century) has upgraded its facilities to meet modern standards, mostly recently by extending its pavilion to create a larger indoor facility. Similarly, a children's play facility has been installed recently in the locality with a wide range of equipment designed to attract youngsters of all ages. Moreover, I note that, as part of its development proposals, the tennis club would install "savanna" type artificial grass (to replace the outdated blaes surface), together with new fencing. Both of these measures would contribute significantly towards an overall improvement in the amenity of the locality. In these circumstances, I regard the installation of modern floodlighting around the 3 southern tennis courts as being an appropriate and

relevant upgrading to a long established recreational facility at the Mid Links; as contributing to the preservation and enhancement of the amenity of the outstanding conservation area; and as making a positive contribution to the quality and range of the recreational services that are available to Montrose's population.

- 3.10 I conclude that the proposal at appeal would not contravene the local authority's policy for development in conservation areas; that it would not run counter to the provisions of section 262(8) of the Act; that it would not contravene the provisions of the Memorandum; and that there are no grounds that would justify the refusal of consent on the basis of the first determining issue. In reaching this view, I have had regard to the fact that the planning authority granted consent for a broadly comparable facility to the lighting at appeal in 1990. Although the 1990 consent lapsed when the club could not raise the necessary finance, the current proposal has been supported by the relevant national organisation, thereby enabling the modernisation programme to be revived.
- 3.11 With regard to other relevant planning issues, I note that the council has submitted 2 recent appeal decisions that relate to floodlighting proposals in conservation areas in Glasgow and in Altringham. In assessing the weight that should be attached to these decisions, it is clear that there are a number of important differences between these proposal and the development at appeal, notably the Bellahouston scheme involved a completely new facility (whereas at Montrose the development relates to 3 of the existing 6 courts within a long established complex) and the Bowden proposal would have been sited in a dark, quiet place at nights (whereas the Mid Links is well lit, is abutted by 2 busy roads and has number of major commercial, service and recreational uses in close proximity). In addition, I note that your club has submitted details of a number of other tennis clubs where broadly comparable lighting has existed for some time without any recorded adverse impact.
- 3.12 My own unaccompanied site inspections of lit tennis courts in Edinburgh confirm that the pool of light emanating from modern, well maintained columns is tightly confined to the playing area; that shields are effective in preventing light spilling out beyond the immediate confines of the courts; and that, from a distance, floodlighting tends to merge readily with other urban light sources such as street lights, car headlights, advertisements and domestic lighting (including external security lights). Moreover, I note that the national guidance in NPPG11 indicates, inter alia, that a grant of consent for floodlighting is possible subject to conditions that limit the hours of play and provide for the installation of appropriate shielding. In these circumstances, I am persuaded that consent for the development at appeal should not be withheld on the basis of the second determining issue.
- 3.13 I have taken into account all the other matters raised but none outweighs the considerations leading to my conclusions. Accordingly, in exercise of the authority delegated to me, I hereby sustain your tennis club's appeal and grant planning permission for floodlights at the 3 southern tennis courts at the Montrose Tennis Club as set out in application 01/96/0249 dated 20 March 1996 subject to the following conditions:-

- 1 The lighting columns, the floodlights and their shields shall be erected and maintained in a manner that concentrates the light upon the playing surface, thereby preventing light spilling outwith a distance 5 metres from the fence at all times.
- 2 The floodlights shall be used solely for the purposes of playing tennis and shall be extinguished when no play is in progress.
- 3 The floodlights shall not operate after 10.00 pm in the summer months (April, May, June, July, August and September); after 9.00 pm in the winter months (October, November, December, January, February and March); and before 8.00 am at any time of the year.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5 CONSULTATION

- 5.1 The Chief Executive, Director of Law and Administration and Director of Finance have been consulted in the preparation of this report.

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.

AA/JJ/SP/IAL

24 April 1997

Alex Anderson
Director of Planning, Transport & Economic Development

