



Appeal Decision

Site visit made on 21 March 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/N0410/W/22/3306851

Burnham Football Club, Wymers Wood Road, Burnham, SL1 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Coe of Burnham Football Club against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/21/2556/FA, dated 25 June 2021, was refused by notice dated 22 March 2022.
 - The development proposed is described as the replacement of the existing lighting at Burnham Football Club, Wymers Wood Road, Burnham, Slough and times of use.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of new lighting on existing columns and increased hours of usage of floodlights at Burnham Football Club, Wymer Wood Road, Burnham, SL1 8JG in accordance with the terms of the application, Ref PL/21/2556/FA, dated 25 June 2021, subject to the conditions set out in the schedule attached to this decision.

Applications for costs

2. An application for costs was made by Mr Peter Coe against the decision of Buckinghamshire Council – South Area. This application is the subject of a separate Decision.

Preliminary Matter

3. I have taken the description of development from the Council's decision notice as this more accurately and succinctly describes the appeal proposal. This description of development is also consistent with section E of the appeal form.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of neighbouring residents with particular regard to noise.

Reasons

5. Burnham Football Club and ground is a long-established facility and lies within a residential area, bound on three sides by residential development. The football building/spectator stands and open grassed area provide a buffer between the football ground and properties located within Willow Wood Close and Tockley Road respectively. However, there are several properties located to the south of the football ground which directly back onto the site.

6. The Council's evidence indicates that planning permission was granted for the erection of eight flood light pylons¹ subject to a condition restricting the use of the floodlights in any one week to no more than two and half hours on two evenings between Monday and Friday, and for one hour on a Saturday. These existing floodlights are required to cease operation by 21:45 hours and no use is permitted outside of these hours. Other than this condition and the general limitation of daylight hours, there are no restrictions which would control the intensity of use of the football ground.
7. The proposed hours of floodlight use as indicated within the planning application form are 09:00 to 22:00 Monday to Friday and 09:00 to 20:30 on Saturday, Sunday and Bank Holidays.
8. The appellants engaged with the Council prior to undertaking the Noise Assessment² (NA) which accompanied the planning application. The assessment follows guidance and methodologies advocated by Sport England³ (SE). A pitch-side survey was undertaken during a junior team event between the hours of 20:00 and 21:30 which the appellant considers best represents the use of the pitch during the extended hours proposed. The NA thereafter concludes that the noise levels in the external amenity areas of the closest noise sensitive residential properties, measured over thirty- and sixty-minute periods would not exceed the unacceptable noise thresholds set out within World Health Organisation (WHO) guidance⁴. These measurements are subject to a barrier adjustment which takes account of the existing perimeter fencing around the neighbouring properties.
9. The Council does not challenge the findings of the NA, rather it contends that the spatial distribution of the monitoring equipment, being limited to two measurement positions does not give a true representation of noise at all sensitive receptors. The key consideration is therefore whether the adopted methodology, in particular the siting of the sound measuring equipment can be relied upon to establish the effect of the proposal on the living conditions of neighbouring residents.
10. The measuring equipment was placed in two locations on the south side of the football ground at a height of 1.5 metres above local ground level, under free-field conditions. Although these locations were limited to one side of the pitch, they were nevertheless within immediate proximity of the closest noise sensitive receptors which directly back onto the appeal site. It is further noted that these locations do not benefit from the same buffers as those properties located to the north and east.
11. Measurement Position One (ML 1) as detailed within Figure 1 of the NA was positioned near to the halfway line and adjacent to a team shelter located on the side-line whilst measurement position 2 (ML 2) was located near to a corner flag. In both cases, the equipment was pitch side and therefore closer to the noise source than the nearest sensitive receptors and thus did not take account of the mitigation afforded by the boundary fence. Moreover, the equipment was within reasonable proximity of the main area of sporting activity, including the team shelter where it is reasonable to assume that more noise would be generated and in a fixed location.
12. For the above reasons, and notwithstanding the unpredictable nature of the noise and movement around the pitch, I am nevertheless satisfied that the identified locations represent a worst-case scenario. As such, on the basis of the evidence I

¹ 03/01088/FUL

² Noise Assessment: Burnham Football Club 2021

³ Design Guidance Note – Artificial Grass Pitch (AGP) Acoustics – Planning Implications 2015

⁴ World Health Organisation Document – Guidelines for Community Noise

find that the monitoring equipment was suitably located. Therefore, I have no reason to conclude that the data misrepresents the noise levels at the identified noise receptors.

13. Whilst satisfied that the data obtained is sufficient to establish the effect of the proposal on the living conditions of the neighbouring residents, I recognise that the noise survey was limited to a training event on a weekday evening. Therefore, I cannot be certain that the ambient noise levels would be comparable with the weekend when, it is reasonable to assume that the background noise environment would be different due to factors including different traffic movements both air and road together with residents' activity. Consequently, and notwithstanding the fact that the use of the football ground is unregulated beyond the existing lighting condition and limitation of daylight hours, I consider it both reasonable and necessary to restrict the use of the floodlights on weekends. This can be achieved by the imposition of a planning condition and would ensure that appropriate measures are in place to account for a difference in the background noise environment.
14. In concluding this matter, I find that the proposed development would not adversely affect the living conditions of the neighbouring residents by reasons of noise. The proposal therefore accords with Policy EP3 of the South Bucks District Local Plan 1999, which amongst other aspects, seeks to ensure that development proposals would not adversely affect the amenities of neighbouring properties or the locality in general. The proposal is also consistent with the objectives of the National Planning Policy Framework which seek to secure a high standard of amenity for existing occupiers.

Other Matters

15. Issues relating to highway safety, increased parking, impact on wildlife and light pollution have been brought to my attention. These matters are largely identified and considered within the Council's Committee report, and it is noted that the Council did not consider these were reasons to refuse the application and I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters. Turning to potential light pollution and disturbance, I am satisfied that a suitable planning condition would ensure that illumination is appropriately controlled.
16. It is further alleged that, as the survey was undertaken on an evening when there were fewer players, the findings did not provide a true account of a typical junior training session. Nevertheless, in the absence of any compelling evidence to substantiate this and given the Council's statement of case, I have no justified reason to doubt the methodology in this regard.
17. Planning enforcement matters have also been highlighted together with more general concerns regarding the management of the football club, behaviour of players and use of the facilities by other clubs. It is the responsibility of the local planning authority to investigate alleged breaches of planning control and therefore I do not intend to offer further comment in this regard. With respect to management issues, whilst mindful of the concerns expressed, these factors have no bearing on my considerations of the merits of the appeal proposal.

Conditions

18. I have had regard to the various planning conditions that have been suggested by the Council and have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.

19. In addition to the standard time limit condition (Condition 1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty (Condition 2). The increased hours of floodlight usage have been justified based on specific evidence relating to the use of the pitch for football related activities. Consequently, a condition limiting the use of the flood lights for such purposes is necessary in the interest of living conditions (Condition 3).
20. For the reasons set out above I have imposed a condition limiting the use of the floodlights on weekends as set out below (Condition 4). However, I have amended the condition as recommended by the Council to reflect the weekday hours stated within the planning application form as the evidence indicates the increased curfew would not be unacceptable.
21. It is acknowledged that football matches which permit spectators have the potential to generate increased noise levels. Consequently, and for the same reasons outlined above, I consider it reasonable to impose a condition limiting the use of the floodlights to football matches which permit spectators to three days in any week (Condition 5). Given that condition 4 prohibits the use of the floodlights on Sundays, I have amended the wording accordingly. A condition restricting noise levels to 50dB LAeq (1 hour) during the months of October to March (inclusive) is also imposed (Condition 6).
22. In order to monitor activity at the Football Club and ensure an appropriate record of events, a condition requiring a logbook to be maintained is necessary (Condition 7). In order to ensure that living conditions are not adversely affected by illumination, I have also imposed a condition requiring the floodlights to be erected and maintained in accordance with the Lighting Impact Assessment (Condition 8). That said, in the interests of precision and enforceability, I have amended the suggested wording. For the avoidance of doubt, conditions three to eight are imposed in the interests of suitable living conditions.

Conclusion

23. For the reasons outlined above, having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is allowed.

H Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three year from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans;
 - Location Plan;
 - 40687 Rev C;
 - Burnham FC Proposed LED Upgrade - Lighting Impact Assessment (2021).
- 3) The use of the floodlights hereby permitted shall only be used in connection with the undertaking of football training and football matches.
- 4) The use of the floodlights hereby permitted shall be restricted to between 09.00 and 22.00 Mondays to Fridays. On Saturdays the use of the flood lights shall be restricted to one hour only between 09:00 and 20:30. The flood lights shall not operate outside of these hours.
- 5) During the months of October to March (inclusive) the floodlights shall only be used for football matches, which permit spectators, on three days in any week running from Monday to Saturday.
- 6) During the months of October to March (inclusive), except for when a match with spectators is taking place, the noise levels from activities taking place while the approved floodlighting is in operation, shall not exceed 50dB LAeq (1 hour) when measured at the nearest noise sensitive locations as identified in the Noise Assessment: Burnham Football Club dated 6 November 2021 and the Technical Note dated 12 February 2022.
- 7) A log, to include dates, times and presence of spectators shall be kept of all matches at the site. This shall be made available to the local planning authority upon their request
- 8) The floodlights hereby approved shall be erected and maintained in accordance with the details set out in the Lighting Impact Assessment dated 4 November 2021.

END OF SCHEDULE