



Appeal Decision

Site visit made on 12 July 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/C4235/W/23/3314661

Cheadle Heath Sports Club, Norbreck Avenue, Cheadle, Stockport SK8 2ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Roy Welsh, Cheadle Heath Sports Club against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/082670, dated 11 September 2021, was refused by notice dated 11 November 2022.
 - The application sought planning permission for erection of all-weather playing area with floodlights and construction of additional parking without complying with a condition attached to planning permission Ref 67393, dated 7 August 1997.
 - The condition in dispute is No 1 which states that: *"The floodlighting hereby permitted shall not be used before 8.00am on any day of after 9.00pm on Mondays to Fridays or after 6.00pm on Saturdays and Sundays."*
 - The reason given for the condition is: *"To safeguard the amenities of the occupiers of nearby residential properties from noise and disturbance arising from the use of the floodlit pitch hereby permitted late at night."*
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The date the planning application was submitted was not detailed on the application form, the decision notice, or within the officer's report. I confirmed in correspondence with the appellant that they believe the planning application was submitted on 11 September 2021, and this was not disputed by the Council.

Background and Main Issue

3. Planning permission ref. 67393 for the all-weather playing pitch included a condition restricting the permitted hours of operation for the associated floodlights. The Council's statement indicates that the condition is necessary to protect neighbouring residents' living conditions, with regard to noise and disturbance. The appellant wishes to amend the condition as they consider the permitted hours of operation are overly restrictive.
4. Taking the above background into account the main issue is whether the condition is reasonable and necessary in the interest of protecting the living conditions of residents on Normanton Road, Emlyn Grove, Aber Road, and Norbreck Avenue with regard to noise and disturbance.

Reasons

5. The appeal site includes three football pitches, two full-sized grassed pitches and a smaller all-weather pitch, alongside associated facilities including a clubhouse and changing facilities. This appeal concerns amending the permitted hours of operation for the floodlights associated with the all-weather pitch only.
6. The appeal site is an irregular shape and is bordered by residential development on Emlyn Grove, Aber Road, and Norbreck Avenue. The pitch which is subject to this appeal is the furthest away from neighbouring dwellings out of the three pitches; nonetheless it is in proximity to properties on Norbreck Avenue.
7. Within the Delegated Report the Council has highlighted the effect of the proposed amendment on the living conditions of properties on Normanton Road. These properties are separated from the appeal site by a large embankment and a railway line.
8. A condition specifying the operating hours of the all-weather playing pitch was not attached to the original planning permission, Ref. 67393. Therefore, in theory the pitch could be used at any time. However, in practice, the condition restricting the use of the floodlighting to between 08:00 and 21:00 on weekdays acts as a de facto restriction on playing time during certain periods of the year, when it would not be practical to use the pitches in bad light.
9. Nevertheless, during summer months the pitch would be suitable for use after 21:00 as there would be sufficient natural light and therefore users would not be reliant on the floodlighting. The effect of the use of the site on neighbouring residents' living conditions would be experienced most in the summer as residents are more likely to have open windows or be using their gardens.
10. Conversely, the appellant contends that the effect would be less in the remaining part of the year as residents would be more likely to have windows shut and be using their gardens less. However, floodlights would need to be used after 21:00, to provide suitable lighting, during spring and autumn months when residents could still be using the gardens and leaving windows open for extended periods of time.
11. The floodlights associated with the neighbouring grassed pitches can be operated up to 22:00 on one weekday a week, and 21:00 on all other weekday nights. The Council were agreeable to amending the condition to allow the same operational hours for the floodlighting for the all-weather pitch, but the appellant did not accept this.
12. Residents on Norbreck Avenue would be most affected by the proposed amendment in operating hours for the floodlights. The rear of the properties on Norbreck Avenue are only a short distance from the pitch. Although these properties include tall vegetation partially along the boundary with the site, there is no substantive evidence before me that indicates that it would suitably mitigate the noise generated by the use of the pitch. Whilst Nos. 28 and 30 Norbreck Avenue are slightly further away, there is little intervening development between those two properties and the all-weather pitch. This would mean noise would travel unfettered to these two properties.

13. The additional hours of floodlighting would lead to extended playing times and resultant noise of people playing football, which would include raised voices and the noise of the football hitting the metal fencing and wooden boards around the edge of the pitch. The noise would feel more prominent in the evening and later into the night when external activity associated with the neighbouring properties begins to reduce. Whilst the proposal would only extend the use of the pitch by five hours a week for part of the year, it would be harmful as it would intrude into the brief period of respite from the noise the neighbouring properties currently enjoy after 21:00.
14. Residents of Aber Road and Emlyn Grove would not be materially affected by the proposed amended permitted hours for the use of floodlights, due to the significant distance between the all-weather pitch and their properties. Similarly, residents of Normanton Road would not be materially affected by the proposed amended hours due to the presence of a large embankment between their properties and the appeal site.
15. The appellant has queried why the Council consider the extended hours to be acceptable for one day and not the whole week. It would be equitable for the hours of permitted floodlighting use to match the neighbouring pitches. Whilst the extended use for one day would intrude into the quieter period enjoyed by the neighbouring residents, the effect would not be significant given the existing use of the neighbouring pitches. However, the cumulative effect of the extended use of the pitches for five days a week would be significantly harmful.
16. It is acknowledged that noise is an inevitable consequence of urban living, especially in this area where sporting events have been commonplace for over a century. Nevertheless, the presence of noisier periods of the day, associated with the use of the site, further justifies the need to protect a quieter period later at night.
17. At the time of the planning application there were no current or historical complaints concerning noise associated with the use of the appeal site. This would cover the use of neighbouring pitches up to 22:00 for one weekday a week and any summer use of the pitches after 21:00. Notwithstanding, the planning application attracted several objections from neighbouring residents which identified concerns with noise being generated from the site. As such, the absence of existing or previous noise complaints does not indicate that the site would not harmfully affect neighbouring living conditions if the hours of permitted floodlighting use was extended.
18. Policy SIE-3 of the Stockport Metropolitan Borough Council, Local Development Framework, Core Strategy DPD (CS), March 2011 explains that in order to safeguard activity that is dependent on quiet conditions for their proper enjoyment, development that introduces unacceptable noise levels will not be allowed. The policy specifies the noise levels that the Council consider to be acceptable, before and after 23:00.
19. The appellant contends that as the Council differentiate between acceptable noise levels before and after 23:00 the proposed amended condition should be allowed. Regardless, I have no evidence before me to demonstrate that the noise generated by the all-weather pitch would fall below levels considered acceptable before 23:00 within CS Policy SIE-3. Furthermore, the planning permission for the all-weather pitch predates the CS and therefore it is not clear whether it was subject to the same standards in relation to noise. It

therefore cannot be presumed that the existing use would conform with these standards.

20. Several examples of similar facilities have been put before me by the appellant, where it is contended that they are able to operate their floodlights until later at night. The site characteristics of three of the examples, namely, Aquinas College, Hazel Grove High School, and Power League, are materially different to the appeal site. The first two examples include dense vegetation along the full boundary with the nearest neighbouring properties, and the Power League site is a significant distance from the nearest residential properties.
21. The Stockport Academy site is similar in character to the appeal site and the floodlights are permitted to be used until 22:00. However, there is a condition attached to the planning permission for the facility, which would allow the Council to serve notice to amend the use of the floodlights, if they cause harm to neighbouring residents' living conditions.
22. The Seashell Trust floodlights are only permitted to be used until 21:00, whereas the indoor sport facilities can be used until 22:00. Nonetheless, indoor sport activities would have less of an effect on neighbouring residents' living conditions when compared to outdoor activities.
23. For the reasons given above, the site specific circumstances are either materially different to the appeal site and therefore the use of floodlights later into the night has less of an effect or there is an appropriate condition to control the use of the floodlights at other sites. Therefore, these examples do not set a precedent for the extended use of the floodlights. In any event, each proposal should be considered on its own planning merits.
24. The original wording of condition No. 1, attached to planning permission ref. 67393, is reasonable and necessary. The proposed extension to the hours where the use of floodlighting is permitted would have a harmful effect on the living conditions of residents on Norbreck Avenue with regard to noise and disturbance. It would therefore be contrary to CS Policies CS8 and SIE-3 which indicate that development should be located and designed in such a way as to take account of natural and man-made hazards including noise; and, development that introduces unacceptable noise levels will not be allowed.
25. The proposed amended condition would also be contrary to paragraph 130 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
26. The proposed amended condition would not have a material effect on the living conditions of residents of Normanton Road, Aber Road and Emlyn Grove for the reasons given above.
27. I ascribe significant weight to the harm caused by the proposed amended condition, as it would lead to an extended use of the outdoor sports facilities later into the night. This would intrude into the brief period of respite the neighbours have from the noise of sport being played at the site.

Other Matters

28. The appellant contends that it is in the best interest of the Council to support local businesses following the Covid-19 Pandemic and resultant restrictions on

leisure activities. Nevertheless, there is no substantive evidence before me that suggests the increase in hours would address an issue that has arisen due to the pandemic or the associated restrictions.

29. Likewise, there is no substantive evidence before me that the existing permitted hours of floodlighting use is overly restrictive and would lead to people preferring other similar nearby facilities or that the restrictions are affecting the vitality of the business.

Planning Balance

30. The appellant contends that the proposed amended condition would comply with the Council's Core Policy 3.3.4. Based on the evidence provided, I agree. Similarly, I acknowledge the support identified in Stockport Active Communities Strategy 2022-2023 which focuses on encouraging and supporting people to be more active by utilising assets of local communities including sports clubs. The appellant has also referred to paragraph 171 of a superseded version of the Framework. This paragraph is not replicated within the July 2021 version of the Framework; however, paragraph 92c) is most relatable. The proposed amended hours would enable and support healthy lifestyles through the provision of safe and accessible sport facilities. It would therefore be consistent with paragraph 92 of the Framework. These factors weigh in favour of the appeal proposal, but alone they do not outweigh the identified harm and development plan conflict.
31. It is acknowledged that the demand for sporting facilities is increasing and maximising the use of existing facilities could enable future sustainability and reduce the environmental effect of developing new facilities, as less new facilities would be required. It would also make a more effective use of the site. This approach would be consistent with paragraph 7 of the Framework which states that the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
32. The proposed amended hours of permitted use of the floodlights would also lead to increased revenue for the sports club which would provide economic benefits through increased employment. It would also help sustain the sports club as an ongoing facility.
33. The sports club provides social benefits through the creation of community spirit associated with team sports. It could also allow the owners to keep pricing competitive which in turn would mean the facility is accessible for users from differing socio-economic backgrounds.
34. These identified economic, environmental, and social benefits would be consistent with paragraph 8 of the Framework. Nonetheless, the weight that I ascribe to these benefits is modest, as the proposed increase in hours would lead to a limited increase in the identified benefits which are largely already present. These benefits would not outweigh the significantly harmful effect of extending the permitted hours of use for the floodlights, on the living conditions of neighbouring residents. This approach is consistent with paragraphs 10 and 11 of the Framework.

Conclusion

35. Overall, I consider that Condition No 1, attached to planning permission Ref. 67393, is reasonable and necessary in the interest of protecting the living conditions of neighbouring residents. I find that the proposed amended wording would be contrary to the development plan when read as a whole and there are no material considerations to outweigh this conflict.

36. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR