

# REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Report No.

Date of Meeting	23 <sup>rd</sup> November 2011		
Application Number	11/02790/S73A		
Site Address	Lower Salthrop Farm, Lower Salthrop, Bassett Down		
Proposal	Variation of condition 06 of 10/02321/S73A relating to light measurement of floodlighting of golf driving range		
Applicant	Mr W Nutland		
Town/Parish Council	Lydiard Tregoz		
Electoral Division	Wootton Bassett East	Unitary Member	Councillor Groom
Grid Ref	401965 181261		
Type of application	S73A		
Case Officer	S T Smith	01249706633	Simon.smith@wiltshire.gov.uk

## Reason for the application being considered by Committee

Under the Scheme of Delegation Specific to Planning, this application to vary the terms of a planning condition has been called to the Northern Area Committee by Councillor Groom to allow for consideration of the following issues: the visual impact upon the surrounding area, the relationship to adjoining properties and environmental/highway impact.

### 1. Purpose of Report

To consider the above application and to recommend that condition 06 to planning permission 10/02321/S73A BE VARIED.

The Lydiard Tregoz Parish Council object to the application.

One (1) letter of objection has been received.

### 2. Main Issues

To consider the proposed variation of condition 06 to planning permission 10/02321/S73A in the context of planning policies C3, NE15 and NE18 of the adopted North Wiltshire Local Plan 2011 and policy guidance contained in PPS23: Planning and Pollution Control. Specifically, to consider the following:

- The meaning of condition 06 to permission 10/02321/S73A
- The proposed reduction in frequency of light measurements
- The enforcement of condition 06 to permission 10/02321/S73A

### 3. Site Description

The application relates to an existing golf driving range facility accessed from Hay Lane, which leads directly to junction 16 of the M4, some 1.0km to the north. The driving range is part of a larger 18 hole golf course complex, complete with clubhouse and parking area.

In planning policy terms, the entire site is part of the open countryside and although not covered by any specific landscape designation, the site can be plainly seen from the Salthrop escarpment to the North Wessex Downs AONB to the south.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
10/02321/S73A	Illumination of ball landing area (removal of condition 01 of 08/02424/S73A)	Permission 24/10/10
08/02424/S73A	Illumination of ball landing area (variation of condition 01 of 04/03231/FUL)	Temporary permission 09/12/08
05/02327/S73A	Illumination of ball landing area (removal of condition 06 of 04/03251/FUL)	Refused 01/11/05
04/03251/FUL	Proposed 20 bay covered driving range, kiosk with ancillary sales area, ball wash, lobby and toilets	Permission 11/01/05

## **5. Proposal**

This application is submitted under s73A of The Town and Country Planning Act 1990 seeking to vary the terms of condition 06 attached to planning permission 10/02321/S73A. Condition 06 states:

06 *In complete accordance with the submitted details a regular record of light measurements taken by an appropriate professional shall be maintained at all times throughout the life of the development. Such a record shall be made available for inspection by the Council upon request. Such light measurements shall be undertaken at regular 3 month intervals, or in accordance with an alternative regular interval so agreed in writing with the Local Planning Authority beforehand.*

*REASON: In order to maintain a floodlighting scheme that is correctly installed and maintained so as to reduce light spillage and keep potential impact upon residential amenity to a minimum.*

s73A of the Act specifically gives provision for a formal application to be submitted to the Local Planning Authority which seeks to vary or remove a condition imposed on a planning permission.

## **6. Consultations**

Lydiard Tregoz Parish Council –

*“A parishioner who lives near the site informs us that the lights vary in adjustment on a regular basis. The letter of compliance is dated 11th January 2011. By now there should have been two more inspections and a third almost due. Does this mean that inspections are not being carried out as per the permission?”*

Highway Officer – No objections.

Environmental Health Officer - No adverse comments.

## **7. Publicity**

The application was advertised by site notice, press advert and neighbour consultation. In response, one (1) letter of objection was received. Main issues raised:

- Is an important condition which protects environment and light pollution
- Small movements in position of lights greatly affects light pollution caused
- Lights are in exposed location and could be affected by strong winds, knocked during maintenance, moved accidentally or purposely
- Applicant has deliberately moved lights in past
- The only inspection and report prepared/submitted was neither credible or independent - carried out by original installers of system who have no interest in finding any fault of a system they installed

## **8. Planning Considerations**

The meaning of condition 06 to permission 10/02321/S73A

Following the grant of permission for a 1 year trial period under permission 08/02424/S73A, intended as a means of ascertaining the visual effect of the floodlights on the landscape and potential nuisance, a permanent permission was granted for the floodlighting under reference 10/02321/S73A.

Although without involving the Council, it became evident during the consideration of permanent permission 10/02321/S73A that complaints over the lighting had been made by local residents over the preceding year direct to the applicant. Specifically, it was suggested that the applicant had deliberately altered the lights so as to increase illumination, and by extension, the floodlighting effect upon the landscape and residential amenity.

Accordingly, and whilst the Council's Environmental Health Officer confirmed at that time that no nuisance complaints had been received in respect of the floodlights, it was decided that particularly worded planning condition 06 be imposed on the permanent permission that would require regular inspection and maintenance of the lights precisely so as to ensure their proper condition and installation. Separate condition 03 to the same permission requires that the floodlights remain installed as proposed and intended, therefore rendering the two conditions mutually reinforcing.

As configured, condition 06 requires those inspections to be carried out every 3 months unless a different time interval is agreed with the Council. It is the frequency of each inspection that this application specifically seeks to alter and it is, therefore, only the frequency of each inspection that can be considered under this application. For this same reason, it is not possible to consider the acceptability of the lights or their continued existence - since planning permission has already been granted for the floodlighting and cannot now be withdrawn.

In light of continued complaints about the effects of the floodlighting, it was decided that the requested change to the frequency of inspection should be properly dealt with via a new application under s73 of The Act rather than a simple exchange of letters between the Council and the applicant.

### The proposed reduction in frequency of light measurements

The applicant does reasonably suggest that the lights are only switched on for 6 months of the year. Since condition 06 does not distinguish between the summer and winter months, it is also suggested by the applicant that to require an inspection every 3 months would be unnecessary and unreasonable. The applicant requests that the condition be varied to only require an annual inspection.

Clearly it is indeed reasonable to assume that the floodlights are most likely to be used during the winter months, therefore rendering only two of the four currently required inspections meaningful (ie. in theory, the first prior to the first use of the lights in the autumn, the second half way through the winter/spring).

In the above context it does seem reasonable to consider a reduction in the frequency of inspections to at least every 6 months. Further, it does also seem prudent to amend the wording of condition to ensure an inspection is completed prior to the first use of the floodlighting in each calendar year.

Although a singular annual inspection would accord with the applicant's request, it is considered that a second inspection, half way through the darker months, would still serve a purpose. In part this is because of the reasons suggested by the concerned neighbour whereby the installation of the floodlights might alter (either by design or accident) precisely at the darkest point of the year when the floodlighting has the most effect and are most visible.

### The enforcement of conditions 03 and 06 to permission 10/02321/S73A

Condition 03 to the above permission requires development to be implemented in accordance with the details that were submitted and approved at the time. Condition 06, in effect, requires a monitoring of those details so as to ensure the development continues to be implemented in accordance with those approved details.

Nothing in the determination of this S73A application will alter or dilute these requires, save from the frequency of inspection of the floodlights. Therefore, in this way any current or future breach of the terms of the original planning permission should be dealt with as a separate enforcement issue and should not effect how this application is determined.

## **9. Conclusion**

It is considered a reasonable request that the applicant makes in his application to reduce the frequency of inspection required by condition 06 to planning permission 10/02321/S73A. However, it is also considered that a second inspection during the winter months would continue to serve a purpose and it is therefore not possible to agree to a singular annual inspection as applied for.

It is concluded that the wording of condition 06 may be varied to require two inspections, once prior to the first use of the floodlighting in the autumn and the second three months later.

## **10. Recommendation**

**That planning permission be granted for the following reason:**

Subject to the imposition of appropriately worded planning conditions, the proposed permanent floodlighting would not cause an unacceptable impact upon the landscape or the amenities of the nearest neighbouring residents. In these circumstances, the proposal is considered to comply with the provisions of Policies C3, CF2 and NE15 of the adopted North Wiltshire Local Plan 2011.

**Subject to the imposition of planning conditions previously imposed, including the variation to the wording of condition 06 to read as follows :**

*In complete accordance with the submitted details a regular record of light measurements taken by an appropriate professional shall be maintained at all times throughout the life of the development and such a record shall be made available for inspection by the Council upon request. Such light measurements shall be undertaken on two separate occasions within every 12 month period. The first occasion shall be each autumn of every calendar year prior to the first operation of the floodlights and the second three months afterwards.*

*REASON: In order to maintain a floodlighting scheme that is correctly installed and maintained so as to reduce light spillage and keep potential impact upon residential amenity to a minimum.*

