



The St John's Area Residents' Association
www.sjara.org.uk

Commentary on planning application 21/P1519

Background

This application contained proposals ("Proposals") for the development of the playing field at Wimbledon College. These included the erection of 15 metre (50 ft) floodlights, a 5 metre fence and the substantial extension of operating hours into weekday evenings and weekends, with permission for commercial hiring to third parties. Wimbledon College is within the West Wimbledon Conservation Area and adjoins residential properties. It is also within the membership area of the St John's Area Residents' Association (SJARA).

Merton Council issued a final Decision Notice approving the application, with conditions, on 19th January 2022.

Analysis

SJARA has carried out an analysis of the report submitted by Merton Planning Officers (the Report") to the Planning Applications Committee ("PAC"), which recommended approval of the application.

SJARA notes that the Report cites 36 planning policies as constituting the "planing context" for the application. These are drawn from the Adopted Merton Sites and Policies Plan and Policies Maps (July 2014), the Merton Core Planning Strategy 2011 (which refers to the Merton's Conservation Area Character Assessments) and The London Plan (March 2021, which refers to the National Planning Policy Framework 2019).

In our view:

- Four policies are supportive of the Proposals. However in at least two cases the support is conditional on avoiding harm to the local community. These policies are described in Section 1.
- The Proposals contravene 12 other policies in whole or in part. These are described in Section 2.
- There are a further three policies set out in the National Planning Framework (not itemised in the Report) that are contravened by the application. These are also described in Section 2.
- There are 17 further policies mentioned in the Report which seem to have have little or no relevance to the proposals and so provide no effective support for them. These are listed in the Annex.

There are four policies relating to the management of waste water and flood risk where we are unable to comment since we lack the necessary technical expertise.

Conclusion

We conclude that the Report was unbalanced with insufficient weight being given to planning policies unfavourable to the application. Also, some comments in the Report relating to unfavourable polices seem contradictory or inconsistent – see for example the comments on London Plan policy D3 (Section 2, page 4).

Planning (Listed Buildings and Conservation Areas Act) 1990

The Council's has a legal obligation under section 72 of the Planning (Listed Buildings and Conservation Areas Act 1990), in relation to Conservation Areas, that: "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". The Council therefore has an obligation at least to consider this matter, but it is not referred to in the Report. We therefore assume that the legal obligation was not met.

May 8 2022

Notes: planning references have been edited for brevity, without, it is hoped, affecting the meaning. Ellipses indicate missing words. Square brackets [] are used to insert words necessary for grammar or meaning. E&OE.

Section 1

Policies offering support

London Plan

S5 (Sports and Recreation Facilities)

Policy: Development proposals for sports and recreation facilities should:

- *increase or enhance the provision of facilities in accessible locations ...*
- *maximise the multiple use of facilities, and encourage the co-location of services between sports providers, schools, colleges, universities and other community facilities*
- *support the provision of sports lighting within reasonable hours, where there is an identified need for sports facilities, and lighting is required to increase their potential usage*

... unless the lighting gives rise to demonstrable harm to the local community or biodiversity.

Comment: The support is qualified by the need to avoid demonstrable harm to the local community.

Core Planning Strategy

CS.11 (Infrastructure)

(e) Policy: Supporting multi use of social, educational, cultural and recreational facilities

CS.13 (Open space, nature conservation, leisure and culture)

Policy: Safeguarding the existing viable cultural, leisure, recreational and sporting facilities and supporting proposals for new and improved facilities; refurbishing and replacing culture, sport, recreation and play facilities in our parks and open spaces

Merton Sites and Policy plan

DM C1

Policy: To ensure the provision of sufficient, accessible, well-designed community facilities...[where] the use(s) do not have an undue adverse impact on the amenities of nearby residents and businesses.

Comment: It is hard to see how the Proposals could not affect the amenity of residents and businesses.

Section 2

Policies contravened

These policies are considered under the following headings:

1. local character and amenity
2. noise and light intrusion
3. biodiversity
4. traffic

1. Local character and amenity

London Plan

D3 (Optimising site capacity through the design-led approach)

Policy: [developments] should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness ... to the existing character of a place ... enhance and utilise the heritage assets and architectural features that contribute towards the local character

Comment: it is surely irrational to contend that the erection of huge lighting pylons and the additional noise from the extended use of the facilities will respond to local distinctiveness or local character or enhance heritage assets.

D4 (Delivering good design)

Policy: Design and access statements submitted with development proposals should demonstrate that the proposal meets the design requirements of the London Plan.

Comment: See policies D3 and HC1 in this section.

HC1 (Heritage Conservation and Growth)

Policy: Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings

Comment: Heritage Assets are defined as including Conservation Areas. It is surely irrational to contend that the 15 metre lighting pylons, the 5 metre fence and the additional and protracted noise accords with this policy.

Merton Core strategy

CS.14 (Design)

Policy: All development needs to be designed in order to respect, reinforce and enhance the local character of the area in which it is located and to contribute to Merton's sense of place and identity.

CS.6 (Wimbledon sub-area) (not mentioned in the Report)

Policy: 16.24 The high quality residential areas to the north and west of the town centre will continue to be conserved and enhanced by ... ensuring that new development responds to the scale, historic value and distinctive character of these neighbourhoods.

Comment: the Proposals do not remotely respect or enhance the local character of the area and so contradict these policies.

Merton Sites and Policy plan

DM D2 (Design considerations in all developments)

Policy: development will be expected to meet all the following criteria:

(i) Relate positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings and existing street patterns, historic context, urban layout and landscape features of the surrounding area ...

iv) Ensure appropriate provision of outdoor amenity space ... compatible with the character of surrounding areas

(vi) Protect new and existing development from visual intrusion, noise, vibrations or pollution so that the living conditions of existing and future occupiers are not unduly diminished

(vii) Ensure provision of appropriate energy efficient external lighting that provides safe and secure environments while not causing light pollution that adversely affects neighbouring occupiers or biodiversity;

Comment: The Proposals are not compliant with these policies because they do not relate positively to the location, are not compatible with the character of the surrounding area, do not protect from visual intrusion or noise, and do not prevent adverse effects on neighbours or biodiversity.

We suggest that the Report is also incoherent in relation to this policy. In paragraph 7.6 the Report states that "It is noted that the proposed retractable floodlights would be very noticeable in its (sic) surroundings when fully extended." In the same paragraph it then states that "it is considered that the impact would be acceptable given the very limited hours these would be in use." The hours will of course potentially be every weekday evening until 9pm, possibly on overcast days as well, and until 6pm on Saturday evening and also Sunday mornings. To describe these hours as "very limited" is irrational.

The Report goes on to state in paragraph 7:10 that the impact of the 5m lighting pylons will be limited because "it is likely that only the top of the floodlights would be visible". The top of the floodlights is of course where all the light comes from.

DM D4 (Managing Heritage Assets)

Policy: ...

(b) All development proposals associated with the borough's heritage assets or their setting will be expected to demonstrate ... how the proposal conserves and where appropriate enhances the significance of the asset in terms of its individual architectural or historic interest and its setting.

Comment: There can be no rational basis for suggesting that the proposals conserve or enhance the local conservation area.

DM O1 (Open Space)

Policy: development in proximity to and likely to be conspicuous from designated open land will only be acceptable if the visual amenities of the open space will not be harmed by reason of siting, materials or design.

Comment: See also policy DM D2 above. It is irrational for the Report to claim that the erection of the proposed structures would not harm the local visual amenity.

2. Noise and light intrusion

National Planning Policy Framework (policies not identified individually in the Report)

Para 174 (e)

Policy: planning decisions should should contribute to and enhance the natural and local environment by preventing ... existing development ... being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution

Comment: see policies below in this section.

Para 185 (a)

Policy: Planning policies and decisions should ... mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development [and] ... limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes ...

Comment: The Proposals contain no measures to mitigate or reduce the adverse impacts of the floodlighting, other than the design of the floodlights themselves which it is claimed (without supporting evidence) will limit light glare and spillage. With regard to noise, see London Plan policy D13 below and Merton Sites and Policy plan DM EP2 below.

London Plan

D13 (Agent of change)

Policy: [developers should]

- *put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.*
- *[ensure that] good design mitigates and minimises existing and potential nuisances ...*
- *[explore] mitigation measures early in the design stage ...,*

- *[separate] new noise-sensitive development... through ... sound-proofing, insulation and other acoustic design measures.*

Boroughs should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed.

Comment: This policy is not mentioned in the Report submitted to the PAC. However it has important implications for noise sensitive developments and provides detail relevant to Policy DM EP2 (below).

Merton Sites and Policy plan

DM EP2 (Reducing and mitigating noise)

Policy: Development which would have a significant effect on existing or future occupiers or the local amenity due to noise or vibration will not be permitted unless the potential noise problems can be overcome by suitable mitigation

Comment: The Decision Notice requires that no music or other amplified sound generated on the premises (when in commercial use) shall be audible at the boundary of any adjacent residential building. This does not deal with unamplified noise generated by commercial use, or noise (amplified or otherwise) produced at any time during the extended operating hours by the College itself.

The Proposals suggest that rubber washers and dampers be inserted in the fence to reduce the sounds of impacts on the fence panels. No consideration has been given to sound proofing, insulation or other acoustic design measures to mitigate noise as required by London Plan D13.

The Decision Notice requires that a noise impact test is to be carried out (and may have already been partly carried out) and approved by the Planning Authority. This could lead to recommendations that the developer would be obliged to follow. It is possible therefore that if the recommendations led to the effects of noise being “overcome” by means of additional insulation, sound proofing etc., the Proposals could then become compliant. However the term “overcome” sets a very high bar.

3. In relation to biodiversity

National Planning Policy Framework

para 179 (b): plans should ... identify and pursue opportunities for securing measurable net gains for biodiversity

Merton Sites and Policies Plan

DM D1 (Urban design and the public realm)

Policy: opportunities for enhancing biodiversity in all amenity space should be taken for all development proposals where appropriate, to strengthen the green infrastructure of the borough

Comment: The Proposals fail to identify any such opportunities.

DM O2 (Nature Conservation, Trees, hedges and landscape features)

Policy: to protect and enhance biodiversity, particularly on sites of recognised nature conservation interest

Comment: It is not suggested that this site is an area of special conservation interest. However the policy requires that planning officers should consider the effect of development on wildlife. The developer commissioned a report to assess local wildlife but this was based on a single day time visit on 26th November 2020 and the report itself consists almost entirely of “boilerplate” (i.e. recital of good practice and applicable legislation). We consider that this report was inadequate and therefore non-compliant.

4. In relation to traffic

Merton Sites and Policies Plan

DM T2 (Transport impacts of development)

Policy (c): smaller developments that fall below Transport for London referral thresholds, which may impact on transport conditions, will be expected to demonstrate potential impacts through a Transport Statement.

Comment: as far as we can glean from industry consultants’ reports, a Transport Statement would generally contain qualitative assessment of existing road and traffic conditions, baseline traffic count data, active travel assessment, public transport accessibility assessment, traffic accident data analysis, qualitative description of anticipated traffic

movements during construction and operation, quantitative assessment traffic generation during construction and operation and details of car parking.

The Report states that “there will be increased traffic movement to and from the site ... however, it is considered that this would not have an adverse impact on the surrounding road network, given the limited size and capacity of the sports surface.” We suggest that this does not remotely resemble a Transport Statement, makes no reference to the current (substantial) levels of congestion in the area and accordingly the policy is not complied with.

Annex

Policies invoked in the Report that are not relevant, or only partially relevant

The London Plan

GG6: (Increasing efficiency and resilience)

Comment: concerned with improving energy efficiency and efficient use of water, and protection against fire and terrorism. The use of high power floodlights will clearly reduce energy efficiency on the site, but otherwise these policies do not seem directly relevant.

D2: (Infrastructure requirements for sustainable densities)

Comment: concerned with the provision of new infrastructure to support development. No such infrastructure is planned as far as we are aware.

D5: (Inclusive design)

Comment: mainly about “inclusion” which appears to refer mainly to London’s diverse population, ease of access and the needs of disabled people. This policy requires to the Design and Access statement to refer to inclusive policies: it does not do so, so to this minor extent the Proposals are not compliant.

G1: (Green Infrastructure)

Comment: this policy relates to green and open spaces, which should be protected and enhanced. Clearly the provision of an artificial playing surface does not “enhance” the existing green space, so strictly the Proposals are not compliant, but we suggest that this is a minor consideration.

G4: (Open Space)

Comment: not relevant: this policy relates to the need for Development Plans (as opposed to individual development proposals) to undertake a needs assessment of open space to inform policy.

G7: (Trees and Woodland)

Comment: not relevant since there will be no significant impact on trees.

SI 5: (Water infrastructure)

Comment: not relevant; the policy relates to water supply, with which the Proposals are not concerned (although they do have implications for waste water and flood control which we have not examined in this commentary).

T4: (Assessing and mitigating transport impacts)

Comment: May not be relevant unless the numbers of people using the facilities *at any one time* is increased – the Report makes no mention of this possibility. However, the Council is required to issue a Transport Statement in relation to developments of this kind (see Section 3, policy DM D2).

T7: (Deliveries, servicing and construction)

Comment: Deals mainly with freight and deliveries and is unlikely to be relevant to the ongoing operation of the site. However construction traffic will be relevant during the construction period, likely to be less than one year, so to this limited extent only, the policy is relevant. The PAC has imposed construction traffic conditions as part of the approval.

Core Planning Strategy

CS.15: (Climate Change)

Comment: Mainly concerned with reducing emissions and the use of other resources such as water.

CS.18: (Active Transport)

Comment: Concerned with prioritising the access and safety of pedestrian, cycle and other active transport.

CS.19: (Public Transport)

Comment: requires developers to demonstrate that their proposals are adequately served by a variety of modes of transport and that the proposals do not have an adverse effect on transport within the vicinity of the site. It is unlikely that the Proposals would have a significant effect on public transport. However Adopted Merton Sites and Policies

Plan policy DM T2 does require a Transport Statement to be prepared (see Section 3) and to the extent this has not been done, the Proposals are not compliant.

CS.20: (Parking, Servicing and Delivery)

See London Plan T7 above.

Merton Sites and Policies Plan

DM D3: (Alterations and extensions to existing buildings)

Comment: Even if lighting pylons are considered to be buildings, they will be new buildings not existing ones.

DM O2: (Nature Conservation, Trees, hedges and landscape features)

Comment: It is not suggested that the site is an area of special conservation interest. In any case, little if any change to trees or hedges is proposed in the application.

DM T1: (Support for sustainable transport and active travel)

Comment: Mainly concerned with promoting the use of public transport, increased levels of physical activity through walking and cycling, alleviating congestion and resisting climate change.

DM T3: (Car parking and servicing standards)

Comment: Mainly concerned with the provision of additional car parking spaces – as we understand it, no additional spaces are planned.