

**Dewey Sports Centre
Barley Close
Bloxham
Banbury
OX15 4NJ**

18/01852/F

Case Officer: James Kirkham

Applicant: Bloxham School

Proposal: External security lights to the car park and building at The Dewey Sports Centre, Bloxham School, Barley Close, Bloxham, Banbury, OX15 4NJ.

Ward: Adderbury, Bloxham And Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew Mchugh

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current proposal seeks permission to erect a number of lights to the car park and building at the Dewey Sport Centre in Bloxham. This would consist of 5 x 4.6m high column lights in the car park, 7 bollard lights to the access way and 24 lights attached to the building.

Consultations

The following consultees have raised **objections** to the application:

- CDC Appointed Lighting Designer, CDC Ecology, Bloxham Parish Council

The following consultees have raised **no objections** to the application:

- CDC Environmental Protection, OCC Highways, OCC Archaeology

8 letters of objection have been received and 36 letters of support have been received.

Planning Policy and Constraints

The site is located within the Bloxham Neighbourhood Plan area. The Bloxham Conservation Area lies to the west of the site.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Landscape and visual impact including heritage
- Residential amenity
- Ecology impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons.

1. The lighting would be excessive for the site and would cause harm to the character and appearance of the area.
2. Based on the limited information provided the impact of the development on bats using the site would be unacceptable.
3. Inadequate information has been provided to demonstrate there would be not significant adverse effect to neighbouring properties.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to the Dewey Sport Centre located to the eastern side of Bloxham. The site consists of a sports centre with sports hall, squash courts, climbing wall and gym and has astroturf pitches and multiuse games areas to the south and east of the building. Further to the east is open countryside. The Jubilee Park and hall exist to the north of the site and residential properties exist to the south and west of the site.

2. CONSTRAINTS

- 2.1. The application site is within Bloxham Neighbourhood Plan Area and the Conservation Area exists approximately 60 metres to the west of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission to provide lighting to the car park and external areas of the building on the site.
- 3.2. The access to the car park exists to the west of the site through the Jubilee Centre parking area with the car park being situated to the north east of the existing building. It is proposed to light the access to the car parking with bollard lights along the northern part of the access this includes the removal of an existing lighting column adjacent to the entrance to the site. The parking area would be illuminated with 5 x 4.6 metre tall car parking columns.
- 3.3. It is also proposed to provide lighting to the external elevations of the buildings. This includes lighting to all the elevations and includes the retention of existing flood lights on the northern and eastern elevation of the building. In total 24 external lights would be placed on the building. Whilst much of these would replace existing lighting, much of the existing wall lighting that exists on the building at the current time does not appear to benefit from consent including the lighting on the more modern extension to the west of the site.
- 3.4. The lighting is proposed to be switched off when the building is not in use and would be switched off at 22:15hrs at the latest.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
CHN 366/84	Erection of new sports facility	Appeal Allowed
93/00530/N	Installation of 14 metre high floodlighting to existing all-weather hockey pitch	Application Refused
94/00617/N	Installation of 14 metre high floodlighting to existing all-weather hockey pitch	Application Refused
05/02289/F	Construction of 2 new squash Courts (as amended by plans received 12.01.06)	Application Permitted

The above included a condition requiring the submission and approval of any external lighting.

06/00334/F	Provision of floodlights to the playing surface	Appeal Dismissed
06/00932/F	Single storey extension to provide secure equipment store.	Application Permitted
07/02628/F	21 No. Lowland Luminaires to car park perimeter.	Application Permitted
10/00726/F	Single storey lean-to to form secure storage for sports equipment	Application Permitted
13/00194/F	Repair/replacement of roof to sports hall; new visitor lavatory accommodation; new single storey structure to provide storage; new gallery	Application Permitted
18/01252/F	Erection of 12 floodlights, extension of existing car park, relocation of long jump, and associated landscaping	Application Refused

- 4.2. The flood lighting application was recently determined by the planning committee and refused for the following reason;

The site is prominent within an attractive and visually sensitive landscape which affords wide-ranging views to Bloxham village. The proposed twelve 12.5m masts with floodlights, due to their siting, scale and illumination, would create a substantial block of light beyond the built confines of the village and highly visible in the landscape. As such, the proposal would have a visually intrusive impact, harmful to the intrinsic character of the surrounding area. Therefore, and in the absence of sufficient mitigation of the visual harm, the proposed development would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy BL11 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.

- 4.3. A 2006 application, for 8 x 15m floodlight masts serving just the further pitch from the main gymnasium building, was also refused – and the decision upheld at appeal. The Inspector concluded that the floodlights would have, *‘a visually intrusive impact, harmful to the intrinsic character of the surrounding area, including the unlit countryside’ and that when not illuminated.....would appear as a tall incongruous feature beyond existing built development..... detracting from the setting of the village as a whole’*. The Inspector concluded that the setting of the conservation area would not be affected as the lights would be separated from that by other development. With regards resident amenity and traffic issues, the Inspector did not have concerns in this regard.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 26.03.2019, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised by third parties are summarised as follows:

In support – 36 comments

- Lighting is required to ensure safe use of the site.
- Improvement to personal safety from the lighting
- Lighting of the site is required for health and safety of the site. It is dangerous without lights.
- Enhancement to the site should be encouraged to promote health and wellbeing. The building is used by many groups and the school.
- Since the lights have been turned off the car park is dangerous.
- Other sites in the area have much higher levels of illumination.
- Reduction in Crime and Disorder.

In objection – 8 comments

- Harm to rural character and appearance of area.
- Sensitive edge of village site.
- The current level of lighting is excessive
- Detrimental impact on residential amenity
- Detrimental impact on wildlife
- Existing lighting is unauthorised.

- Lighting left on all the time and not switched off as stated by the applicant.
- Lighting not necessary particularly around the side of the site.
- The low level bollard lighting should be reintroduced which was appropriate for the site.

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

COUNCILLOR

7.2. COUNCILLOR HEATH: Requests application be called to committee in light of the parish councils comments.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.3. BLOXHAM PARISH COUNCIL: **Objects.** This application is contrary to the following policies in the Bloxham Neighbourhood Plan: BL9 and BL11 and Cherwell District Council's Part 1 Adopted Local Plan July 2015. In addition:

- the lighting which is proposed is far in excess of what is needed to light this car park;
- the 5 columns showing levels of 25 lux, appears to be contrary to the recommendations of EZ2 (rural) of 15 lux;
- the proposal affects the visual amenity of an intrinsically dark area; and
- the proposed lighting will have negative impact of the amenity of residents of 1, 2, 3 Waters Court

CONSULTEES

7.4. INDEPENDENT LIGHTING CONSULTANT ON BEHALF OF CDC: **Objects.**

Car parking lighting

7.5. In general, the proposed luminaire and mounting height and proposed 0 degree tilt angle are acceptable in principle, along with the selected colour temperature of 3000K. The proposed illuminated bollards should also be of a warm white colour temperature (3000K) as per the column mounted luminaires.

7.6. The applicant lighting report (28/02/19) states "For any UK Car Park a minimum of 15lux @ 0.25 Uniformity is required". There appears to be no justification for this statement, furthermore lighting recommendations for Car Parking areas are outlined in British Standards document BS 5489 – 1 :2013 Table 5. Within the guidance, there are examples given for type of area and usage relevant to the car park. These are:

- Light Traffic, e.g. parking areas of shops, terraced and apartment houses; cycle parks.

- Medium Traffic, e.g parking areas of department stores, office buildings, plants, sports and multipurpose building complexes.
- Heavy traffic, e.g. parking areas of schools, churches, major sports and multipurpose sports and building complexes.

7.7. The guidance states:

7.8. “The appropriate lighting level should be selected from Table 5, taking into account the type and location of the car park, and should be provided and maintained through all the night-time hours of use.

7.9. *NOTE 1: A different level may be selected at periods of night when the usage is significantly different to normal usage.”*

7.10. Whilst the applicant’s lighting assessment report takes into consideration the car park in the context of the facility, it fails to recognise the setting of the relatively small car park in a rural setting. The car park is also significantly smaller than would be associated with a multipurpose sports and building complex, so is unlikely to attract a heavy traffic flow.

7.11. Therefore, it is recommended that the proposed average illuminance is revised in accordance with the criteria for ‘light traffic’ car parks. (5.0 Lux average / 0.25 Uniformity) because the proposed illuminance levels for the car parking area are significantly higher than those required for a small car park.

7.12. Given the rural setting of the application site, it is also expected that the car park lighting would be dimmed or switched off when the sports facility is closed as the background levels of luminance in the area are low, due to the infrequent locations of the public lighting.

7.13. The lighting proposals include the use of illuminated bollards to provide lighting to the access road serving the car park, this is an acceptable approach on the basis that the building mounted floodlights (type D shown on drawing 118211-211) are not being used to provide light for the access road / track.

Proposed Wall Lighting

7.14. Merit is given to the proposed luminaire to replace the existing wall mounted bulkheads, as the light will be focussed directly downwards, reducing the potential for significant light spill towards adjacent residential dwellings. However, the proposed lighting levels are excessive with no justification for the lighting design rationale. The Halliday Lighting report states: “Each footpath will also be lit to 5lux Minimum”, but this does not appear to have been achieved as the minimum stated illuminance.

7.15. Whilst the vertical illuminance levels as presented appear acceptable, there are no details relating to the reference height of the calculation. This vertical illuminance calculation should be provided for the rear face of the adjacent residentially dwellings to provide evidence that the light spill levels are within limits at the dwelling windows. For the avoidance of doubt, ILP - Guidance Notes for the Reduction of Obtrusive Light (GN01-2011) provides limits on light spill into windows. The guidance states for E2 Environmental Zones, light spill into windows should not exceed 5.0 lux (pre-curfew) and 1.0 lux (post curfew).

7.16. It is recommended that the proposed lighting levels in this area are reduced in line with BS EN 12464-2 : 2014 (Lighting of outdoor work Places) – Table 5.1: General

requirements for areas and for cleaning at outdoor work places (Ref no. 5.1.1-Walkways exclusively for pedestrians. This would see the light levels reduced to an average of 5.0 Lux 0.25 Uniformity.

- 7.17. Given the low level of ambient luminance in the environment, this would significantly reduce the potential for the luminance of the façade to dominate the landscape.

Existing luminaires (Type C and D)

- 7.18. The inclusion of the existing flood light noted as type C on drawing 118211-211 is not likely to have affected the proposed light levels for the car park, access road and perimeter footpath. Therefore there is no requirement for the applicant to include these in the assessment.
- 7.19. It is expected that the flood lighting luminaires attached to the building (denoted 'D' on drawing 118211-211) has a symmetrical light distribution that is unlikely to provide useful light levels onto the car park access road / track. These luminaires should be tilted to 0 degrees to support this assessment.

Summary

- 7.20. In summary, the proposed lighting design specifies equipment that would minimise obtrusive light in the environment. Unfortunately, the proposed light levels in the car park and for the pedestrian walkway are excessive, with no justification given for the rationale behind the lighting design. Therefore, there is potential for the lighting to be significantly more dominant in the landscape than is necessary an area of low district brightness / low ambient luminance.
- 7.21. Recommend that the application for lighting is refused due to excessive light levels in the car park and on the perimeter pedestrian walkway with no justification provided.
- 7.22. CDC ENVIRONMENTAL PROTECTION: **No objections.** The lighting impact survey report makes little mention of light intrusion however the accompanying diagrams show that the plans achieve the requirement for light intrusion to be below the minimum of 5 lux at the nearest sensitive receptor. The 15 lux guideline that the Parish Council is referring to is to ensure a car park is safe to use. As such, the lighting scheme is compliant with this requirement and appears to have an average of 21 lux across the total area.
- 7.23. CDC ECOLOGY: **Objecta.** The lighting does not seem to have been specific consideration of bats in the assessments or timings of use. The earlier application did identify both the 'rarest' bats (Barbastelles) using vegetation within 50m of this site (and they can of course choose to use different flying routes over time) and a good range of other more common species of bat using vegetation in the immediate area of this application. This included slow flying myotis species which are particularly sensitive to light and classed as 'rarer' species of which most were recorded at the Northern monitoring location (next to this car park). The Bat Conservation Trust/ILP guidance note 08/18 does recommend there is no illumination of features used by highly light-averse species. We have a duty to consider their conservation. The amended lighting plan here does include UV filters and aims to reduce upward glare however the plans show five tall column lights around the carpark, two of which are within the vegetation to the North and show a lux spill into the vegetation which is the equivalent of typical road side lighting. Raises no issues with the bollard lighting but currently feel the carpark lighting would have a detrimental effect on bats foraging in the area and could be much reduced particularly to the North. Would expect an assessment of impacts on bats for this

application to be submitted to check how they might be impacted by the proposed lighting as they have not been addressed specifically in the documentation. Should there be impacts and if impacts cannot be avoided then mitigation may be required.

7.24. OCC HIGHWAYS: **No objections.**

7.25. OCC ARCHEAOLGY: **No objections.**

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- BSC7 - Meeting Educational Needs
- BSC10 - Open Space, Outdoor Sport and Recreation Provision
- Policy Villages 4 - Meeting the Need for Open Space, Sport and Recreation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 - Layout, design and external appearance of new development
- C31 - Compatibility of proposals in residential areas
- ENV1 - Development likely to cause detrimental levels of pollution

BLOXHAM NEIGHBOURHOOD DEVELOPMENT PLAN (2015-2031)

- Policy BL9 - Policy on regard for the amenity of existing residents
- Policy BL11 - Policy on contributing to the rural character of the village
- Policy BL12 - Policy on the importance of space and key street scenes

Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8.3. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future

taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Landscape and visual impact including heritage
- Residential amenity
- Ecology impact

Principle of Development

Policy Context

9.2. Policy BSC10 of the Cherwell Local Plan (CLP) 2015 states ‘*The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision*’. Amongst other measure this will be achieved through qualitative enhancement to existing sporting provision.

9.3. The NPPF seeks to ensure that places are safe and accessible and support healthy lifestyles through the provision of safe and accessible sports facilities (para 91). Paragraph 92 states that planning decisions should support the development of established facilities in developing and modernising.

Assessment

9.4. The current application has come about as the previously approved bollard lighting that served the car park was removed and replaced with pole mounted lighting. The current application therefore seeks to provide a new lighting scheme to the car park and building.

9.5. Officer are of the view that there is a need to lighting within the car park to improve the user experience of the site and allow safe and accessible access to the car park and building to serve the existing recreational use of the site which serves both the school and the wider community. It is clear from a number of comments received that the site is used and the provision of lighting aids their use of the site and

improve the safety and accessibility of the site. It is also noted that the principle of providing lighting on the site within the car park has previously been approved and the proposal to provide lighting on the site is therefore considered by officers to be acceptable subject to the other considerations outlined below.

Landscape and visual impacts including heritage

Policy context

- 9.6. Policy ESD13 states that development will be expected to respect and enhance local landscape character and will not be permitted if they cause an undue visual intrusion into the open countryside, be inconsistent with local character or harm the setting of settlements. *Policy ESD15* of the CLP 2031 Part 1 also states that development should complement and enhance the character of its context through sensitive siting, layout and high quality design and conserve, sustain and enhance heritage assets. It goes on to state that the proposals should limit the impact of light pollution from artificial lighting on local amenity.
- 9.7. Policy BL11 of the Bloxham Neighbourhood Plan states that development should *'Use smart, energy efficient lighting of public areas that accords with the recommendations of the Institute of Lighting Engineers recommendations on reduction of obtrusive light (or its successors) so as to convey a rural feel and avoid light pollution wherever possible'*
- 9.8. Paragraph 180 of the NPPF states that planning decisions should ensure new development is appropriate for its location taking into account the likely effects of pollution. In doing so planning decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

Assessment

- 9.9. The application site is located on the edge of the village adjoining the surrounding open countryside. The building itself has a closer relationship with the built form of the village than the car parking which is somewhat more detached from the buildings and surrounded by sports pitches. The open countryside is relatively flat stretching to the east, but falls away to the north and south. There are a number of public footpaths along the ridge to the east which appear to be in regular use. As is demonstrated from the previous planning applications on the site it is sensitive to artificial light.
- 9.10. The proposed lighting columns within the car park themselves are not considered to have a significant visual or landscape impact given the overall height of these and the relationship with the surroundings they are experienced. They could be considered to be coloured to further reduce this impact. Given the scale of the proposal and the intervening buildings the proposals are also not considered to have a detrimental impact on the setting of the Conservation Area situated to the west of the site.
- 9.11. There are, however, significant concerns regarding the lighting levels that are proposed and the impacts of this on the visual amenity of the area at an edge of village location. Given the rural environment of the site, the ambient light environment in the area is low and this increases the sensitivity of the site. It is clear that planning policy requires proposals to limit the impact of light pollution from artificial light.
- 9.12. The Council has instructed a lighting consultant to provide advice on the proposed lighting levels for the site having regard to best practice, standards and the local

context. The site is located in a rural area, which is considered to be classified as environmental Zone E2 considered against the guidance within ILP 'Guidance notes for the reduction of obtrusive light'. This guidance also provides guidance on light spill and glare.

- 9.13. The applicant's lighting report argues that, in accordance with the relevant British Standard, the proposed car park should have minimum lighting level of 15 lux at 0.25 Uniformity. The submitted plans appear to show the lighting would provide an average illuminance levels over the car park area of 21 lux with a uniformity of 0.35.
- 9.14. The Council's lighting consultant has considered the proposals against the relevant guidance and standards. This is a judgement based on professional expertise, taking into account the size of the car park, the scale of the facility and the rural context of the site. Based on the information provided they consider the site is likely to be considered to be a 'lightly traffic' area for which the British Standards indicate 5.0lux average with 0.25 uniformity. Based on the lighting proposals provided they therefore conclude that the level of lighting in the car park would be excessive for the requirements of the site and would result in unjustified harm to the environment in this respect, which would be viewed from the surrounding land.
- 9.15. In relation to the building lighting this is designed to angle the lights downwards to reduce glare and provide directional lighting. The Council's lighting consultant has, however, stated that the wall lighting appears to be excessive with little justification for the lighting design rationale.
- 9.16. The Council's lighting consultant is generally satisfied with the other aspects of the scheme such as the colour temperature, height and angle tilt.
- 9.17. The flood lights which are situated on the northern and eastern elevations of building of the building are not included within the lighting assessments. The Council's lighting consultant has indicated that the flood lights located on the northern and east elevation of the building are unlikely to provide useful light levels into the car park or access ways. Clearly, however, these lights add to the overall levels of lighting at the site. This adds to officers overall concerns that the levels of lighting at the site would be excessive for the requirements of providing safe access around the car park and to the building.

Conclusion

- 9.18. Whilst officers accept the principle of providing lighting at the site to aid the use of the site, officers are of the opinion that the current proposal would be excessive and not would limit the impact of light pollution from artificial lighting on the local environment and the lighting to be significantly more dominant in the landscape than is necessary or justified in an area with relatively low levels of lighting. It would be contrary to Policy ESD13 and Policy ESD15, Policy BL11 of the BNP and advice in the NPPF.

Residential Amenity

Policy context

- 9.19. Policy ESD15 of the CLP 2031 states that new development should consider the amenity of both existing and future development and should limit the impact of light pollution on local amenity. Saved Policy C28 of the CLP 1996 echoes this guidance.

- 9.20. Saved Policy C31 of the CLP 1996 states that in existing residential areas, any development which is not compatible with the residential character of the area or would cause an unacceptable level of nuisance will not normally be permitted.
- 9.21. Policy BL9 of the BNP 2031 states that all development shall ensure that the living conditions of neighbouring residents are not materially harmed.
- 9.22. Paragraph 170 of the NPPF states that planning decisions should prevent new and existing development from contributing to unacceptable levels of pollution.

Assessment

- 9.23. The properties which would be most significantly impacted upon by the lighting would be the properties immediately to the west of the site in Waters Court and Barley Croft. The application site is separated by this site by planting on the western boundary.
- 9.24. The column lighting proposed in the car park lighting is located some distance from the neighbouring properties and would be angled downwards to regard light spill and glare. The Council's Environmental Protection Officer is generally satisfied with the proposal and has raised no objection to the proposal in regard to the impact on the amenity of the neighbouring properties. It appears that some of the concerns relates to the lights being left on throughout the night and a planning condition could be imposed on any consent to ensure the lights were switched off at 22:15 as stated by the applicant.
- 9.25. In regard to the lighting on the western elevation of the building the Council's lighting engineer has stated whilst the vertical illuminance levels as shown on the submission acceptable there are no details relating to the reference height of the calculation and they have advised that the vertical illuminance calculation should be provided for the rear face of the adjacent residentially dwellings to provide evidence that the light spill levels are within limits at the dwelling windows. To date this is unclear and it has not therefore been demonstrated that the proposal would be acceptable in this regard.

Conclusion

- 9.26. Generally the impact on the neighbouring properties is considered to be acceptable in regard to light spill and glare. That said, the lighting could be required by condition to be switched off at 22:15 to further reduce the impact. There are, however, some concerns regarding the proposed wall lighting on the western elevation of the building and it has not been demonstrated within the submission that the light spill levels to these property would be acceptable.

Ecology Impact

Legislative context

- 9.1. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.2. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.3. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.4. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.5. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.6. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.7. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.8. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.9. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.10. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.11. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.12. During the course of the previous application on the site for the flood lights on the sports pitches a number of bat surveys were undertaken with monitoring locations to the northern boundary of the site (adjacent to the car park) and southern boundary adjacent to Ridgeway. This identified bat foraging and commuting activity at the site including some bats classified as the 'rarest' (Barbastelle) and rare species (Nathusius pipistrelle), which were identified on the southern boundary away from the car park. It also identified common and more widespread species on the northern boundary. This included slow flying myotis species which are particularly sensitive to light and classed as 'rarer' species of which most were recorded at the Northern monitoring location (next to this car park).
- 9.13. The Council's Ecologist (CE) has been consulted and has raised concerns regarding the proposals and the potential impact on bats. The amended lighting plan does include UV filters and aims to reduce upward glare however the plans show five tall column lights around the carpark, two of which are within the vegetation to the North and show a lux spill into the vegetation which is the equivalent of typical road side lighting. Given the findings of the earlier bat surveys the CE is concerned regarding the impact on bats and the application documentation does not make an adequate assessment of this. It is noted the Bat Conservation Trust/ILP guidance note 08/18 does recommend there is no illumination of features used by highly light-averse species.
- 9.14. Overall the CE is of the view that the application documentation does not make a sufficient assessment of the impacts of the proposals on bats to fully understand how they might be impacted by the proposed lighting or to suggest any mitigation.
- 9.15. Having regard to the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable ecological information

and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposed development would result in some benefits associated with the safe use of the existing building and uses on the site and this would support the schools and wider community use of the sports facility. Whilst it is considered that the principle of lighting the site is acceptable, it is considered that the proposal would be excessive and would result in unjustified harm to the local amenity, ecology and would not limit the impacts of artificial light pollution in accordance with local and national planning policy. The proposal has also failed to adequately demonstrate that the light spill to the neighbouring properties would be to an acceptable level.
- 10.2. Overall the benefits of the proposal are considered to be outweighed by the harm when viewed as a whole against the policies in the Development Plan and the NPPF. It is therefore recommended that planning permission be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

1. The proposed lighting, due its excessive illuminance, has an unjustified urbanising and harmful impact on the rural character and appearance of the area. Therefore, the development is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Policy BL11 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.
2. Having regard to the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable ecological information and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and the National Planning Policy Framework.
3. The application fails to adequately demonstrate that the wall lighting to the building would not have a detrimental impact on the amenity of the properties to the west of the site. Therefore, the development is contrary to Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policies C28 and C31 of the Cherwell Local Plan 1996, Policy BL9 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.