

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL  
PLANNING APPLICATIONS COMMITTEE**

**7 March 2019**

<b>Application No:</b>	SMD/2019/0036	
<b>Location</b>	Skate Park, Brough Park, Fowlchurch Road, Leek, ST13 6AS	
<b>Proposal</b>	Installation of 5 freestanding lighting columns each with a 295 watt LED luminaire.	
<b>Applicant</b>	Mr Gareth Knapper, Staffordshire Moorlands District Council	
<b>Agent</b>	None	
<b>Parish/Ward</b>	Leek	<b>Date registered</b> 22/01/2019
<b>If you have a question about this report please contact:</b> Mr B Hurst tel: 01538 395400 ex 4127 <a href="mailto:benjamin.hurst@staffsmoorlands.gov.uk">benjamin.hurst@staffsmoorlands.gov.uk</a>		

## **REFERRAL**

The application is brought before Planning Committee because it has been submitted by the Council's Commissioning Service/Contract Management, Leisure and Recreation.

### **1. SUMMARY OF RECOMMENDATION**

<b>APPROVE with conditions</b>
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### **2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

2.1 Brough Park is a public park in Leek. The open park land is enclosed and shaped by belts of mature trees that provide a sense of seclusion from the surrounding areas of residential development. Footpaths provide passage between and connect different areas of space within the park.

2.2 Brough Park was first established in the late 18<sup>th</sup> Century over a previous field system as a landscape park to provide setting to Ball Haye Hall, which was finally demolished in 1972. The landscape park was opened as a municipal park in 1924. The recently refurbished skate park is located within a central grouping of facilities which include the sports centre, children's playground, bowling greens, and tennis courts all 20<sup>th</sup> century/early 21<sup>st</sup> Century developments that reflect the evolution of the park from a late 18<sup>th</sup> century landscape garden to a 20<sup>th</sup> century Municipal Park.

2.3 The integrity of the park's historic character is well preserved despite the late 20th/early 21st century development. Aspects of the parkland such as the ornamental lake and walled garden to the north of the skate park and the planting within the park retains elements which relate to its origins as a designed landscape park in the late 18th century and part of a working country estate until the early 20th century.

### **3. DESCRIPTION OF THE PROPOSAL**

3.1 In the winter months, during evening hours of darkness, the development would illuminate the recently refurbished skate park with the installation of 5 freestanding lighting columns and bracket mounted 295 watt LED luminaires. Refurbishment and redevelopment of the skate park was recently carried out without planning permission as development permitted by the provisions of the General Permitted Development Order available to Local Authorities. However, the installation of the lights is not permitted development and it requires planning permission because the lights would be equipment that exceeds 4 metres in height.

3.2 The columns would be evenly spaced to the edges of the facility, three placed along the western edge and two to the east, each supporting a single luminaire unit. To achieve an appropriate spread of light across features that include sunken bowls, and to avoid any shadow cast, each lighting column must be 8 metres high. The columns would be made from grey die-cast aluminium and be similar in appearance, in terms of size and design, to a very tall street light. The LED luminaires would be flat square boxes, approximately 50 cm by 50 cm, attached to the column with a bracket.

3.3 The lights would be used for approximately 4 months of the year so that the skate park can be used from dusk until 20:30 hours in the winter. The lights would be operated with an adjustable timer control located inside the men's bowling pavilion and managed by staff from the leisure centre. The staff would also have a remote control unit to override the timer. If there are any problems at the site, such as unwanted behaviour, or if the weather is poor, the lights could be switched off quickly before the timer control is triggered.

3.4 The aim is to increase the amount of time that the new recently refurbished skate park can be used. In the winter months there is no natural daylight by the time many youngsters have finished school. The lights will give everyone a chance to use the park during this time, particularly the priority group of children and young people aged between 5 and 18. Skateboarding and BMX are both Olympic sports and there would be the possibility of creating a wheeled sports club.

3.5 Sport England awarded a grant of £50,000 towards refurbishment of the skate park on the understanding that as part of a 'Sports Development Plan' new lighting would make the facility useable throughout the year.

3.5 The application, the details attached to it, including the plans, any comments made by residents and the responses of consultees can be found on the Council's website at:-

<http://publicaccess.staffsmoorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=127556>

#### **4. RELEVANT PLANNING HISTORY**

4.1 The skate park was originally built on the site of an old play ground without planning permission. Recent refurbishment of the skate park would have been permitted by available provisions within the General Permitted Development Order to Local Authority Development.

#### **5. PLANNING POLICIES RELEVANT TO THE DECISION**

5.1 The Development Plan comprises:-

- Saved Staffordshire Moorlands Local Plan Proposals Map/Settlement Boundaries (Adopted 1998);
- The Staffordshire Moorlands Core Strategy Development Plan Document (Adopted 26<sup>th</sup> March 2014)

Staffordshire Moorlands Core Strategy Development Plan Document (Adopted March 2014)

5.2 The following Core Strategy policies are relevant to the application:-

- SS1 Development Principles
- SS1a Presumption in Favour of Sustainable Development
- SS5a Leek Town Area Strategy
- SD1 Sustainable Use of Resources
- SD4 Pollution (including noise and light pollution)
- DC1 Design Considerations
- DC3 Landscape Character and Appearance
- C1 Creating Sustainable Communities
- C2 Sport, Recreation and Open Space
- NE1 Biodiversity and Geological resources

Emerging Staffordshire Moorlands Local Plan

Local Plan Process

5.3 The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was "sound". Formal representations were then invited from residents, businesses and other stakeholders to provide them with the

opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

5.4 In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public will now be held this Autumn in order to determine whether the Local Plan is sound and legally compliant. Subject to the findings of the appointed inspector, the Local Plan is expected to be adopted in the Spring of 2019. At this point, it will supersede the adopted Core Strategy and become part of the statutory development plan for the District.

5.5 In this context, the Council's position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is as follows:

- The stage of preparation – the Local Plan is now at an advanced stage of preparation as the Council has submitted it to the SoS for examination;
- The extent to which there are unresolved objections to relevant policies; this varies depending on the policy in question;
- The degree of consistency of policies with the NPPF – given that the Council has submitted a Local Plan that it considers to be sound, all policies are deemed to be consistent with the NPPF.

### Emerging Policies

5.6 The following policies of the emerging local plan are referred to below because they would introduce changes or differences that are specifically relevant to this application:

- SS5 The Leek Area Strategy has an additional aim of "Reducing levels of health and economic deprivation in Leek North" to reflect a recommendation in the Equalities Impact Assessment (Can only be attributed limited weight because there are outstanding representations but the responses are not directed at this particular element of the policy)
- DC1 Design Considerations in respect of amenity protection should include the "creation of healthy active environments" (Can be attributed significant weight, there has been limited representation)
- DC2 Amendments to make the policy compliant with the NPPF so that impact on historic significance is balanced against public benefit (Can be attributed significant weight, there has been only limited representation)

- DC3 With consideration of Landscape and Settlement Setting the wording clarifies that development to be resisted should lead to prominent intrusion/ significant adverse impact rather than just being 'harmful' or 'detrimental' (Can be attributed significant weight, there has been limited representation)

National Planning Policy Framework (NPPF February 2019)

5.7 The following NPPF sections are relevant;

- 2: Achieving sustainable development
- 7: Ensuring the vitality of town centres
- 8: Promoting healthy and safe communities
- 12: Achieving well-designed places.
- 15: Conserving and enhancing the natural environment
- 16: Conserving and enhancing the historic environment

**6. CONSULTATIONS CARRIED OUT**

<b>Site notice published</b>	Expiry date for comments: 04/03/2019
<b>Press Notice</b>	N/A
<b>Neighbour Notification</b>	Expiry date for comments: 14/02/2019

**Public Comments:** None received

**Leek Town Council:** No objection. Consideration should be given to the activity of bats and whether the installation of CCTV would be appropriate.

**Severn Trent Water:** No objection.

**Service Commissioning/Contract Management, Leisure and Recreation:** Full support. It is a Council priority to increase participation in sport and levels of physical activity, particularly among children and young people aged 5 to 18. The project has cabinet and member approval. Skateboarding and BMX are both Olympic sports and we want to build on the positives of the new facility and create a wheeled sports club(s).

**Environmental Health:** No Objection. Suggest that the lights are only used between dusk and 20:30 hours to protect nearby residents from light and noise nuisance.

**Ecologist:** Lighting can adversely affect a bat's foraging and commuting routes. Brough Park has lines of trees, grassland and open water which are highly attractive to bats. Lighting in the vicinity of a bat roost could cause disturbance and potentially it might be abandoned. Adjusting the timing of when lighting is switched on and off may be sufficient mitigation to avoid significant impacts. Leicestershire Environmental Records Centre (2014) recommended switch off times corresponding to sunset in all months, except

November- February when bats will be hibernating to avoid impacts from sports floodlighting. Automatic switch off is required to ensure compliance.

## **7. OFFICER COMMENT AND PLANNING BALANCE**

### **Policy Context and Principle of Development**

7.1 Generally there should be a presumption in favour of sustainable development supported at paragraphs 7, 8, 10 & 11 of the NPPF and compatible policies SS1 and SS1a of the Core Strategy. Achieving sustainable development means that the planning system has overarching objectives to support strong and healthy communities; and to contribute to the protection and enhancement of the environment. Planning permission should be granted for sustainable development unless adverse impacts would clearly outweigh the benefits.

7.2 The Leek Area Strategy set out in the Core Strategy at SS5a and in the emerging Local Plan are entirely compatible with those principles and the delivery of sustainable development. In accordance with that strategy, development should consolidate Leek's role as the principal service centre and market town by, inter alia, protecting, increasing and improving the provision and accessibility of open space, sport and recreational facilities; and by increasing and improving the provision of health and community facilities. The emerging strategy for the Leek Area would also introduce the additional and specific aim of reducing levels of health and economic deprivation in Leek North. This strategy also relates well to paragraphs 91 and 92 of the NPPF which advocate a positive approach to achieving healthy, inclusive places which promote social interaction and provide social, recreational and cultural facilities to meet community needs.

7.3 The development in this case would install lighting within a public park in Leek town centre where it would provide illumination for a new skateboard park so that it could be used during the hours of early evening darkness in the winter months. Improving the existing facility for a large number of residents within a principal service centre, so that it can be used for longer and more frequently, would maximise the community benefit delivered by the existing facility and the money already spent on it. The existing park through its varied facility provides other opportunity for sport and recreation and participation in differing or multiple activities. The development would contribute and be wholly compatible with the strategy for the Leek Area, and in those respects deliver sustainable development. There should be a presumption in favour of this sustainable town centre development.

7.4 Additionally to those broad strategies and principles there are within the Core Strategy 'sustainable communities' policies C1 and C2 which are aimed at enhancing community facility within defined built up areas where they are most accessible to promote the provision of high quality recreational open space and support schemes that will protect and improve the quantity, quality and accessibility of outdoor sports, leisure and children's play facilities throughout the district. Specifically, development to improve the use and

availability of existing outdoor sports and recreation provision such as the introduction of lighting should be permitted provided that they are directly related to the needs of the facility and meet criteria for new sport facility which seeks to ensure that it is accessible; protects the residential amenity of the area; is compatible with the local area; does not harm interests of acknowledged importance; and be designed so that they are fit for purpose. Development impacts relevant to residential amenity; the character and appearance of the area; and ecology are all discussed separately below.

### **Could the Development have an Impact on Residential Amenity?**

7.5 Residential amenity is a broad concept applicable to the way in which people enjoy the spaces and environments around the public and private spaces that they occupy much of the time. Emerging Local Plan policy DC1 would specifically attribute the “creation of healthy active environments” to the role of quality amenity. In respect of that, amenity is enriched by engaging and varied facility such as installations for sport, recreation, fitness and play. But moreover, facilities such as the skate park, redirect potentially boisterous or undesirable behaviours, which might have nuisance value on the streets and corners of the residential areas, and instead encourages positive activity, applied resourcefully on purpose built facility with the net result of improving amenity for all.

7.6 Primarily, however, these considerations are concerned with the potential for light glare or spillage and any evening time noise from the skate park to be a source of nuisance. Policy SD4, DC 1 and C2 of the Core Strategy all seek to ensure that development does not adversely affect residential amenity through the effects of noise and light pollution in particular, and that any harm can be appropriately mitigated.

7.7 The Council’s Environmental Health service has not raised an objection to the development. The application is accompanied by a good level of data demonstrating that predicted light spillage should not cause amenity issues for neighbouring nearby properties, the closest of which are 120 metres away from the skate park located behind a strong belt of protected mature trees and hedgerow. It is unlikely to be necessary, but any glare resulting from poor fitting or direction can be corrected post installation.

7.8 There can be certain noises associated with the use of the skate park. However, the exuberance of the participants or the clatter of skates rolling over the features should not create excessive sound or volume within a park and recreational area that is a good distance from its nearest residential neighbours. The skate park itself is pre existing and already in use, it can be used without lighting and in the summer months the park could be used until late evening. Those additional months of evening use that would be available under the lighting, should not increase the volume of noise or introduce nuisance over the course of a year. In any event, the applicant intends to switch the lights off before 20:30hours bringing the evening session to a close, this appears to be an entirely reasonable proposition, particularly as the majority of participants are likely to be of school age young people. The

lighting would be operated by a timing device so that they would be switched off automatically and sport centre staff would be able to override the timer in the event of bad weather or undesirable behaviour.

7.9 The development would not have an adverse impact on residential amenity and that is not a matter that should be weighted against the considerable positives associated with the development and the prevailing presumption in favour.

### **Impact on the Character and Appearance of the Area**

7.10 Policies DC1 and DC3 of the Core Strategy and DC2 of the emerging Local Plan all require that development should not adversely affect the character and appearance of an area, good considerate design should help achieve well designed places that preserve what is locally distinct with specific consideration for natural and historic environments and the heritage and landscape assets within. In these respects the policies of the Development Plan accord with the sections of the NPPF relevant to 'Achieving well-designed places' and 'Conserving and enhancing the natural and historic environments'.

7.11 Brough Park provides the setting and surroundings relevant to the existing Skate Park. Originally the 18<sup>th</sup> Century landscaped park and garden setting to Ball Haye Hall, it provides pleasant parkland spaces enclosed by mature deciduous tree lines and a locally distinct environment of both natural and historic merit. The layout and planting of the park itself and specifically, the ornamental lake and walled garden to the north of the skate park are retained elements which relate to its origins as a designed landscape park, they should be given consideration as 'non designated heritage assets' within the environment.

7.12 Although the skate park has a locational relationship with the other sports centre development and facility, it does appear rather exposed in a relatively wide clearing between trees. At 8 metres high the inevitably tall lighting columns, essential to the safe and proper illumination of the facility, shall from immediate vicinity be quite tall and, despite a certain context against the sport centre developments and the tennis court netting, they would loom above any point of reference or comparable structure such as the much shorter nearby street lights that line the access road and footway.

7.13 However, from the middle distance the lighting columns would have a very slender profile appearing as spindles that would be largely lost behind and in between the mature tall trees within the park. To the south of the band stand and the bowling-green and sports courts, the land falls away steeply into a valley dip from where the lights would not be visible at all. The historically important ornamental lake lies approximately 70 metres to the north. However, the mature trees that surround the lake, line the access road and form groups within the landscaped belt of land between the lake and the development beyond, provide it with a sense of seclusion and its character and appearance and significance as a heritage asset would be largely

unaffected with consideration of views out of, within and into this area of the park.

7.14 For a few hours each evening, during the winter months, the immediate environment of the skate park would be notably brighter with the obvious effect of artificial lighting against the natural darkness of the night. However, the existing night time environment is not one of total darkness, where existing street, car park and building lighting already provide functional illumination within the locality. Inevitably however, there would be the introduction of bright light at considerable height.

7.15 The NPPF requires the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.

7.16 Brough Park does not fall within the Conservation Area and it is not designated as a heritage asset. While it retains elements of historic value relevant to its origins, the loss of the old hall in 1972 and the inevitable introduction of contemporary features and developments necessary to its function as a municipal park and community facility have reduced its significance as a heritage asset toward the lesser end of the scale. Where the functional structure and illumination of the development would be at odds with the historic and natural qualities of the parkland landscape, particularly within immediate vicinity, the scale of the harm would be limited by its context as part of a central grouping of existing facilities for sport and recreation, while from the middle distance any observable impacts would be very much diminished by the land profile and the mature tree lines.

7.17 In this case therefore, it can be said that the heritage asset is of reduced and relatively low significance while the scale of the harm to its significance and the character and appearance of the area generally would be limited. Moreover, the considerable public benefit delivered with this development would clearly outweigh the harm identified.

### **Could the Development have an Impact on the Ecology of the Area?**

7.18 Brough Park has lines of trees, grassland and open water which are highly attractive to bats. The Habitat Regulations 2017 and Wildlife and Countryside Act 1981 require that the population of a protected species, such as bats, be maintained and protected from the adverse impacts of development and this is reflected in the policies of the Development Plan and the NPPF. Policy NE1 of the Core Strategy requires that biodiversity be conserved and enhanced by protecting habitats and species of principal importance for the conservation of biodiversity as defined in legislation. The policy recognises the value of the natural environment for sport and leisure activity and the need to manage such activity so that there is no conflict. The Core Strategy policy accords with the NPPF, which at paragraph 175a) says that if development would result in significant harm to biodiversity that can not

be avoided then permission should be refused; and 180 c) requires decision makers to specifically seek to limit the impact of light pollution on nature conservation. The NPPF makes it clear that the presumption in favour of sustainable development does not apply where that development would potentially impact upon habitats site.

7.19 The Lighting could adversely affect the foraging and commuting routes used by bats and lighting in the vicinity of a bat roost could cause disturbance and it might be abandoned. The application does not include an activity or foraging survey, but in the absence of such information, the Council's Ecologist has confirmed that it must be assumed that if the lights are switched on during times when bats might be active this could potentially cause significant harm to biodiversity and specifically bat population. The policies of the Development Plan and the NPPF make it clear that this is a matter that should be attributed substantial weight and that if the harm can not be mitigated or avoided planning permission should be refused.

7.20 However, in this case the ecology advice suggests that if the lights were switched off and not in use when bats are likely to be active, this should be sufficient to avoid significant impacts. Essentially bats will emerge after sunset between 1<sup>st</sup> March and 31<sup>st</sup> October but during the winter months they are in hibernation. When bats are hibernating, a four month winter period, the lights can be used at any time without issue. In the spring and summer months it is not necessary to use lights because there is generally enough natural daylight for the skate park to be used until 20:30 hours. This means that it is only evening use during early spring and early autumn, approximately 2 months every year, where lighting could affect bat activities at times where visitors would otherwise be reliant on lighting if they were to make use of the skate park. However, to comply with the Ecologist's recommendation and advice, it is entirely necessary to restrict the use of the lights so that they can not be switched on or used during those times and can only be used between the 1<sup>st</sup> November and the 28<sup>th</sup> February. The applicant considers this to be an unfortunate but absorbable restraint on the aspirations of the project.

## **Conclusion and Planning Balance**

7.21 The considerable positives and presumption in favour of this proposal to provide sustainable development that complies with and delivers on the Town Area Strategy with significant public benefit would not be outweighed by some limited harm to the character and appearance of the area and the significance of a non-designated heritage asset that is of reduced and lower significance.

## **8. RECOMMENDATION - APPROVE**

**A. It is recommended that planning permission is granted subject to the conditions and informatives outlined below:-**

## **Conditions**

**1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason:- To comply with Section 91(1) of the Town and Country Planning Act 1990 (As Amended)**

**2. The lighting columns permitted shall be of a design that accords precisely with the drawn and written details shown on the Abacus drawing numbered T088RLH 'B' and shall be installed in each of the five locations shown on the attached SITE LOCATION PLAN as being at the centre of a red solid circle. Each lighting column shall be fitted with a single 'ClearFlood' 295 watt LED luminaire unit of a type that is shown and detailed on the Philips data sheets that were submitted with the application.**

**Reason:- For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.**

**3. None of the installed lights shall be used or switched on at any time between the dates of the 1<sup>st</sup> March and the 31<sup>st</sup> October in any calendar year. When the lights are in use during the dates between the 1<sup>st</sup> November and the 28<sup>th</sup> February, in any calendar year, they shall only be switched on at dusk and shall be switched off each night before and no later than 20:30 hours.**

**Reason: To avoid an adverse impact on bats and to prevent any offence under the Habitat Regulations 2017 and Wildlife and Countryside Act 1981 from being committed. To limit the potential for the lighting to be a cause of noise and/or light nuisance at nearby residential properties.**

**4. The lighting permitted shall be orientated and shielded or otherwise designed and positioned such that the light spread, brightness and direction accords precisely with those detailed and explained in the documents 'Performance Results Version 4.2', 'Spillage Charts Version 4.2', 'V4.2 Spillage Iso Contours 200 Lux', and 'V4.2 Spillage Results 200 Lux' that were submitted with the application . There shall at no time be any light spillage that is beyond or outside of that which is accounted for in those documents nor at any time shall the lighting increase the pre-existing illuminance at any nearby light sensitive residential location.**

**Reason:- To protect to some degree the dark sky environment within the park and the amenities of adjoining land users.**

## **Informatives**

- i) The LPA has worked with the applicant to secure a sustainable form of development. Para 38 pf the NPPF has been adhered to.**
  
- B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal), prior to the decision being issued the 'Head of Development Services' has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

