



Applicants:

Musco Sports Lighting

Application No:

10/0097/FULWNN

Date Registered:

08/07/2010

Expiry Date:

02/09/2010

Grid Ref:

477 261

Ward:

Abington

# Northampton UDA Planning Committee Paper

Report by Director of Planning

Date of Committee Meeting: 9<sup>th</sup> November 2010

Agenda Item: 6

Description: Retention of Six Floodlight Columns (48 metres in Height) and a GRP Switch Cabinet.

Address: County Ground, Abington Avenue, Northampton, Northamptonshire, NN1 4PR

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## 1. Update

- 1.1 A report regarding this item was placed before members at the Committee on 5<sup>th</sup> October where members resolved to defer the determination of the application to allow for a site visit to assess the impact of the floodlights from surrounding vantage points and neighbouring properties.
- 1.2 The site visit has been arranged for Monday 8<sup>th</sup> November.
- 1.3 The previous report to committee is attached at Appendix A and the update sheet, incorporating late items is provided at Appendix B.

## 2.0 Enforceability of Proposed Conditions

- 2.1 An issue regarding the enforceability of the recommended conditions was raised at the October meeting by Cllr. Brian Hoare, speaking against the planning application. In response to this, the WNDC case officer subsequently held a meeting with the relevant officers from Northampton Borough Council's planning, enforcement and environmental health teams, in order to discuss the future enforceability of the recommended conditions – numbered 1 – 4 on the attached report.
- 2.2 Each of the conditions were considered to be enforceable by the relevant officers. Officers from NBC noted the comments made by NBC's Planning

Committee which requested that a condition be attached to ensure that the lights are connected to the mains electricity supply prior to the next cricket season in order to avoid the need for the temporary generator to be used.

- 2.3 As discussed in the previous report to committee, the applicants have provided a letter from the electricity provider confirming an agreement to connect the lights to the mains. The club have stated that this work will be undertaken in January and the matter should therefore be resolved well before the next cricket season. Given the comments received from NBC members and officers, it is recommended that a further condition be attached to any approval relating to the electricity connection. In the event that the lights are not connected to the mains prior to the cricket season, officers recommend that full details of the alternative means of providing electricity be provided, prior to the use of the floodlights. In this way, the location and type of generator can be specified in order to prevent any undue disturbance to adjacent residents.

### 3. Recommendation

- 3.1 In view of the above, officers recommend that the application be APPROVED, in line with the reason set out within the report to the October meeting (Appendix A), and subject to the following conditions:

#### Conditions:

1. The floodlights shall be used for a maximum of 15 days per year (between 1<sup>st</sup> April and 30<sup>th</sup> September only) to enable the staging of cricket matches and shall not be used for any other purpose.

Reason: To control the number of night time cricket matches and ensure that the floodlights are used in connection with the sporting use of the ground, in the interests of the amenities of surrounding occupiers, in accordance with policy E20 of the Local Plan.

2. The floodlights shall not be switched on between the hours of 23:00 and 09:00. In between the hours of 22:15 and 23:00, the floodlights shall only operate at a maximum of 100 Lux (as shown on the submitted revised plans entitled "Illumination Summary - Exiting and Work Spill 135673GFinal", received on 08/07/2010 ). In the event that the match finishes before 22.15, the floodlights shall be turned down to operate at a maximum of 100Lux, immediately upon the completion of play.

Reason: To protect the amenities of adjacent residents and to ensure the safety of spectators and club officials when exiting the ground.

3. The levels of light spill into adjacent properties shall be in accordance with the levels shown on the approved revised light spill plans numbered; 135673GFinal entitled Illumination Summary: Spill, Abington Avenue, Wantage Road, LTW Clarke Road #1, LTW Clarke Road #2, Wellingborough Road and Boundary Vertical Spill. On site readings should be within 10% (+ or -) of the specified readings to allow for operational, weather and atmospheric conditions. A scheme identifying how the light spill from the floodlights will be monitored shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of work on the development. This shall include an annual monitoring report with on-site meter readings at agreed locations surrounding the ground (as compared to the levels proposed within the approved drawings). The results of this annual survey shall be submitted to the Local Planning Authority. If the on-site Lux values exceed the figures in the approved plans, a scheme identifying measures to address the light spill shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the floodlights shall not be used until any proposed mitigation measures implemented in full, in accordance with the approved details.

Reason: To ensure that levels of light spill are controlled to an acceptable degree, in the interests of residential amenity.

4. No amplified music shall be played at the ground between the hours of 22:15 and 09:00. In the event that the match finishes prior to 22:15, any amplified music shall be turned off immediately upon the completion of play. Thereafter, the PA system shall only be used for the purpose of emergency or public safety announcements.

Reason: To prevent the amplification of noise at anti-social times, in the interests of residential amenity.

5. The approved floodlights shall not be operated unless either of the following criteria have been satisfied in relation to electricity supply;
  - a. The lights have been connected to the mains electricity supply and confirmation of this has been submitted in writing to the Local Planning Authority; **or**
  - b. In the event that the lights are not connected/ or operated from the mains supply, a scheme identifying the method of electricity generation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the generator, its location within the ground and a noise assessment demonstrating the impact upon any adjacent residential properties.

Thereafter, the lights shall only be operated in line with the agreed details.

Reason: In the interests of residential amenity.



**Applicants:**

Northamptonshire  
County Cricket Ground.

**Application No:**

10/0097/FULWNN

**Date Registered:**

08/07/2010

**Expiry Date:**

02/09/2010

**Grid Ref:**

477171 (E)

261737 (N)

**Ward:** Abington

## Northampton UDA Planning Committee Paper

Report by Director of Planning Services

Date of Committee Meeting: 5th October 2010

Agenda Item: 5

**Description:** Retention of Six Floodlight Columns (48 metres in Height) and a GRP Switch Cabinet.

**Address:** County Ground, Abington Avenue, Northampton, Northamptonshire, NN1 4PR.

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**1. Recommendation**

- 1.1 That the application be **APPROVED** for the following reason:
- 1.2 The development is required in order to modernise and update the County Cricket Ground in order to provide facilities that are compatible with current television and spectator requirements for televising County level cricket matches. In this regard, the proposals are consistent with the aims of promoting high level sport within Northampton. Furthermore, the impact of the proposals on the wider landscape, adjacent listed buildings, and the character and appearance of the Abington Conservation Area are considered to be acceptable. Subject to the imposition of appropriate

conditions, any impact upon neighbouring amenity can be controlled to an acceptable level.

Therefore, following an assessment of the material planning considerations, it is considered that the proposal accords with guidance within PPG17, and saved policies E1, E9, E20, E26 of the Northampton Local Plan.

## **2. Summary**

- 2.1 In September 2009, a report was placed before WNDC's Northampton Area Planning Committee regarding an application from Northamptonshire County Cricket Club (NCCC) for the erection of six floodlight columns, along with various internal alterations to the cricket ground. Members resolved to approve the application, subject to a number of conditions to mitigate the impact of the scheme. For reference, a copy of the officer report to the September 2009 meeting is attached at Appendix A. Following the approval, the floodlights were subsequently erected in the early part of this year.
- 2.2 Following complaints to Northampton Borough Council's (NBC) enforcement team and to officers at WNDC, it was established that the floodlights had not been erected in the position shown on the approved plans. Therefore, the lights, as erected, do not have the benefit of planning permission because they are not compliant with the details previously approved by this Committee. Consequently, a planning application has now been submitted for the retention of the floodlights and associated attachments. This application has been submitted by Musco Sports Lighting - the company that erected the floodlights.
- 2.3 Comments on the merits of the scheme in planning terms are set out further in this report. However, it is stressed that the authority of WNDC, under its statutory function, is limited to the determination of the planning application. Issues of enforcement of planning controls rest with NBC. A number of additional complaints have been received by NBC regarding the operation of the floodlights during the course of the season, in relation to alleged breaches of the conditions attached to the previous scheme, particularly with regard to the hours restriction under condition 2. There is clearly a close relationship between decision making and future enforceability of any conditions attached. Further comments on this issue are set out below. At the present time, the conditions attached to the previous consent cannot be enforced by NBC because the

floodlights have not been erected in accordance with that consent. In simple terms, the conditions attached cannot be applied to an unauthorised development.

- 2.4 In view of the above, the recommendation in this report is to approve the retrospective application subject to the conditions as set out. It is considered that the principle of the floodlights is acceptable but only on the basis of an approved scheme with conditions to mitigate any inappropriate impact upon neighbouring amenity. It is considered that the conditions are enforceable and will enable the enforcement authority to adequately control the impact of the scheme.

### **3. Description of Site**

- 3.1. The application site relates to the Northamptonshire County Cricket Ground, located within Abington, approximately 2km east of the town centre. The site has a long history of sporting use and has accommodated the cricket club, and formerly Northampton Football Club, since the late 19<sup>th</sup> Century.
- 3.2. As with many traditional sports facilities of this kind, the site is well integrated with the surrounding built up area and is surrounded on all four sides by residential properties. The ground has vehicular entrances from Abington Avenue to the north (with car parking next to the new cricket school) and Wantage Road to the south (which gives access to the pavilion and associated car park). The terraced properties at Clarke Road back onto the western boundary and the Victorian/ Edwardian villas of Wellingborough Road wrap around the south-east corner of the ground. Aside from the Cricket Ground, the area is predominantly residential.
- 3.3. The houses fronting onto Wellingborough Road are included within the Abington Conservation Area due to their relationship with Abington Park which is a mature urban park stretching away to the south and east of the cricket ground.
- 3.4. Within the ground itself, is a combination of spectator stands and cricketing facilities. The largest building is the relatively new indoor cricket school on the Abington Avenue side of the ground. The main pavilion is in the south-west corner, with smaller stands along the Clarke Road boundary and two new stands sit adjacent to the cricket school to the north-east (approved by NBC under ref: N/2009/0214). Although no longer used, the bowling green is still situated to the eastern side of the ground, running up to the boundary with Abington Cottages – grade 2 listed dwellings.

#### **4. Description of Proposal**

- 4.1 The proposals seeks retrospective planning permission for the retention of 6 floodlight columns at the County Cricket Ground, in addition to an electricity switch cabinet, which is located in the south east corner of the ground adjacent to the Wantage Road/ Abington Road. Attached to each column are a number of ballast boxes at a height of 3m from ground level.
- 4.2 The floodlights are located at intervals around the perimeter of the ground. The current application seeks the retention of all six floodlights and measurements taken by NBC and WNDC officers on site demonstrated that none of the lights was in the position as shown on the approved site plan. However, the discrepancy for each light was different. The two lights furthest from the approved location are noted as P1 and P4 on the site plan. P1 is adjacent to the indoor cricket school on the northern side of the ground and P4 is adjacent to the switch cabinet in the south-east corner of the site. Both of these columns were around 10m from the approved position, when measured from adjacent buildings.
- 4.3 The reason given in the planning statement for the position of the lights is that the lighting engineers discovered practical difficulties when setting out the position of the lights on site, due to the location of roads and buildings. It was considered that the floodlights foundations which are on a 5m x 5m pad would undermine some of the adjacent buildings. The construction team on site erected the lights to take account of these constraints without the benefit of planning consent. The statement therefore suggests that there were a number of flaws in the design stage resulting in discrepancies between the architects drawing and the on-site engineering requirements. Clearly, the correct approach would have been to halt construction and apply for an amended planning application prior to construction. In this case, that didn't happen and the result is the unauthorised scheme that is the subject of this application.

#### **5. Policy Considerations**

- 5.1 **WNDC Purpose:**
- 5.2 Under S136(1) of the Local Government Planning and Land Act 1980, WNDC as an Urban Development Corporation has a statutory “objective” to deliver the regeneration of the

area. The Secretary of State has determined that WNDC should have development control powers for certain types of development in order to carry out its objective.

**5.3 National Policy:**

5.4 The following Planning Policy Statements / Guidance should be taken into consideration in the determination of this application.

PPS1: Delivering Sustainable Development

PPS1: Delivering Sustainable Development: Planning and Climate Change

PPS5: Planning for the Historic Environment

PPG13: Transport

PPG17: Planning for Open Space, Sport and Recreation

PPG23: Pollution

PPG24: Planning and Noise

**5.5 Development Plan:**

NBC Local Plan (1997): Saved Policies E1, E9, E20, E26.

**5.6 Other non statutory documents:**

5.7 WNDC Planning Principles (2009): Set out in this document are WNDC's three corporate objectives: 1. To deliver development and infrastructure that enables regeneration and growth in Northampton, Daventry and Towcester; 2. To ensure that new development is supported by appropriate jobs, infrastructure and town centre regeneration; 3. To ensure that new development meets the Government's design quality and environmental standards and is integrated into existing communities.

**6. Representations (summarised below):**

6.1 **NCC Sustainable Transport** : no comments

6.2 **NBC Planning**: A report will be taken to NBC's Northampton Planning Committee on 30th September to seek members views on the proposal. The comments of NBC are

not therefore available at the time of writing and will be presented to members in an update prior to committee. Comments have been received from individual officers/ departments at NBC and these are summarised below:

**Conservation (NBC)** – Due to the scale of the floodlights they are visible from numerous locations within the conservation area. However, the cricket ground has existed in this location since the end of the 19<sup>th</sup> century, it should be able to contribute to the wider historic environment. It is considered that the floodlights contribute to the way in which this part of the town is understood by locals, and visitors alike. Therefore whilst the lights are visible, they do not detrimentally impact upon the character of the conservation area. With regards to Abington Cottages it is considered that their value in heritage terms is more related to historic character. Historic character cannot easily be eroded or damaged unless the actual features of the building are destroyed or concealed. The contribution that the cottages make to the wider historic landscape or the conservation area is reduced due to their location to the rear of the early 20th century terraced housing that now surrounds them. As such the understanding of the area is bound up with the pace of change. Therefore the introduction of the floodlights should be considered these terms, whereby features are introduced which enable new or enhanced uses to take place. In conclusion the amended locations of the floodlights and the columns has not lead to a significantly increased level of visual impact that would warrant an objection on conservation grounds.

**Public Protection (NBC)** – The proposed lights comply with the Condition set down on the 2009 permission and therefore although the lights have not been located in the locations as originally agreed, it would appear that the stipulation of the original condition is being met. Condition 3 of the original 2009 permission should be amended to provide further clarification as to the location in which light levels are to be measured. *Condition 3 concerned reducing light levels to 100 lux upon the completion of play.* The long term of the use of the generator would amount to a loss of residential amenity on account on increased levels of noise, odours and fumes. Furthermore, other methods of powering the lights exist without these negative impacts upon residential amenity, such as mains power. It is therefore recommended that any approval be subject to a condition requiring that lights are connected to a mains source prior to their further use. By providing floodlights, the hours of operation of the ground have been extended. As a result of this residential amenity appears to have been affected and therefore additional controls should be placed on the playing of music and use of the public address system, which could be achieved through a survey of the existing facilities. It is recommended that the large television screen is subject to controls over use in order to encourage crowd dispersal at the end of matches.

- 6.6 A joint response from **Cllr B. Hoare** and **Cllr Markham** has been received. Object to the application on the following grounds:

- Impact upon visual amenity of the Abington Conservation Area and wider landscape
- The noise nuisance that will be experienced by local residents
- The light pollution that will be experienced by local residents
- The conditions attached to the application are unenforceable.

6.7 Additional comments in the letter are summarised as follows:

- The letter states that the assessment of the application in 2009 was inadequate in that there was no visual impact assessment submitted at the time. The intrusive nature of the towers is now evident and members should reconsider the impact on the landscape.
- The residents' fears of adverse impact have been realised since the lights have been in operation, games have proceeded beyond the agreed time and the cricket club have no motivation to comply with the condition and will rely on the condition not being effective.
- The light levels were considered appropriate and were assessed by a quality engineer. Experience of local residents and members is that the reality is unacceptable. Members need to be convinced that the approved light spill levels are appropriate and should undertake a site visit to assess this.
- NBC Environmental Health has received a number of complaints regarding noise impact during floodlit matches. The committee should reflect on its earlier assessment of noise impact and has a responsibility to local families and children. Unless noise can be controlled, the committee should not approve the development.
- The use of generators has caused further nuisance when the lights should have been connected to the mains. Whilst we believe the lights should be refused, if members are minded to approve, they should impose a condition stating that they should be connected to the mains supply before 1<sup>st</sup> May 2011.
- The existing conditions are poorly worded and difficult to enforce. They should be reviewed with the enforcement authority to ensure that residents can be protected.
- Members should recognise that a mistake has been made and take the opportunity to rectify this mistake. It would be a difficult decision to remove the floodlights but if this is the correct decision in planning terms, then that is the right decision.

6.8 An addendum is attached to the letter, stating that the applicant has provided misleading information with regard to the application, has failed to provide sufficient information to enable a proper assessment of the application, and has failed to act as a responsible developer when implementing the planning permission. Particular reference is made to the fact that the lights have not been connected to the mains, contrary to statements in the planning permission, and the fact that no visual assessment/montage was provided at the time of the previous application. It is suggested that the club continued to erect the lights, after realising they were in the wrong position, because no-one would dare to ask them to take them down.

## 7. Notifications and Responses

7.1 10 site notices were erected within the vicinity of the ground, neighbour letters were posted to surrounding residents and a press notice was issued.

7.2 In response, we have received letters of support from 3 residents, individual letters/ e-mails of objection from 74 addresses (some have sent multiple letters), and a letter written by David Lock Associates on behalf of 14 residents.

7.3 The following is a summary of the main comments:

### In Support:

- I am a local resident and have noticed the lights but feel the benefits of the lights outweigh the negatives. The ground attracts visitors from afar who have a positive impact on the town
- Resident of Wantage Road states that there have been no problems with light spill from the lights since they were erected. Improvements to the ground should be encouraged
- Point out that local pubs close at 11.30, later than any noise generated by the cricket club.
- disturbance in terms of noise and light is negligible and quite acceptable for the minimal number of nights the floodlights are used
- the county ground was in existence long before all of the residents who live nearby
- the scheme to allow parking in Abington Park has been successful in alleviating parking problems
- Allowing matches to start later under floodlights will allow residents to get home from work and park, thus avoiding peak hour traffic.
- The lights are designed to beam light onto the pitch and reduce spill into residential properties.
- if the lights are refused, there is a real possibility of the cricket club not being able to survive economically. The income generated from the lights will be used to support grass roots cricket, providing young people with physical and personal development opportunities

### In Objection:

- the lights are visible from across the town and ruin the skyline of the surrounding area.

- they completely alter the view from adjacent residential properties
- why can't the club have retractable lights?
- the light spills out into bedrooms and neighbouring properties disturbing sleep and amenity
- when cricket games are on, it is difficult to park in surrounding streets
- after one game, fireworks were set off at 11.00pm at night
- after cricket matches, the streets are full of litter and empty bottles (mainly alcohol)
- quality of life and property values have been diminished by these monstrosities
- planning conditions regarding times of operation have already been broken
- the lights were supposed to be connected up to the grid but a generator is still used causing noise and pollution
- the lights contravene all quality issues relating to planning permission and are environmentally disgraceful
- the lights should be removed outside of the cricket season
- request that parking permits are provided for residents only
- the lights show that the cricket club is not part of the community but is a blatant commercial enterprise
- the lights impact upon children sleeping in the area
- what is the point of having a conservation area if planning permission is given to these lights
- they are totally out of scale with their surroundings
- the diameter of the lights is greater than was stated due to the ugly grey boxes attached to them
- the mobile generator has spilled fumes into adjacent properties
- if the floodlights were the same height as the Saints or Cobblers there would be no objection but there is no rationale for them to be 48 metres
- No objection to the visual impact of the lights but when they are switched on, the light spill is unbelievable
- the loud music associated with the cricket matches is very disturbing
- insufficient notice was given regarding the erection of the original lights
- the lights are a danger to drivers
- the lights are of industrial proportions and not appropriate in a residential area

- the decision to approve the lights was undemocratic and failed to take account of residents' views
- the temporary floodlights and other inconveniences of living next to the cricket ground were just about acceptable but the permanent additions are a step too far.
- radio reception has been affected by the lights
- the impact of the lights on Grade II listed buildings at Abington Cottages is unacceptable
- the lights have changed the atmosphere of the Abington Park Conservation Area
- the scheme was only approved on the basis of conditions which have not been met by the cricket club
- the cricket club should have been relocated at the same time as the football club
- why are these lights higher than any other ground in the country?
- WNDC's handling of the application looks to be another shambles
- The light spill plans submitted for the previous approval will be rendered inaccurate due to the lights being in the wrong place
- the impact on sleep patterns affects a basic human right
- if permission is granted, the height of the lights must be significantly reduced
- the light spill is very intimidating for old people living alone
- the noise associated with T20 matches is a complete change from traditional cricket
- the light pollution is in breach of PPS23 and The Clean Neighbourhoods Act 2005
- any decision to grant planning permission should be granted subject to a condition that the lights must first be connected to the mains supply
- the actions of NCC have demonstrated that they will ignore any conditions
- question why the switch box is located in its current position
- the long term benefit of the town would be better served by retaining the area as a nice place to live.
- views of residents should take precedence over an inconsiderate cricket Chief Executive

7.3 Letter from David Lock Associates. A summary of the points made on behalf of 14 residents is set out below:

-Despite the applicant's claim that the application is simply to regularise the current situation, it is put forward that this is an opportunity to reconsider the proposal in the context of actual experience and the impact of its use.

- The wider benefits to the area are recognised but the scheme does not represent a reasonable balance between these benefits and the amenity of local residents
- The duty to pay regard to the setting of listed buildings and the character and appearance of the conservation area may not have been properly satisfied when considering the original application
- The original application documentation was misleading and there was no proper visual assessment of the proposal
- The availability of alternative solutions that would have less impact was not considered.
- The ballast boxes on the columns were not part of the previous application but are obtrusive at eye level.
- The mobile rig that was used to assess the scale of the application was not representative of the actual lights and was misleading.
- An independent lighting assessment should be obtained due to concerns that the mitigation in association with light spill has been ineffective
- The temporary generator has caused problems and the lights should be connected to the mains
- The lights have impacted negatively on the setting of adjacent listed buildings and the character and appearance of the Conservation Area.
- The case for granting the application relied upon the use of conditions to control the impact of the lights. These conditions have not been enforced by the LPA and the wording of these conditions is too imprecise to control the impact of the scheme. Without conditions that are enforceable, the application should be refused.

7.3 **Planning Statement Addendum.** In response to the comments received as a result of consultation/ notification, the applicants have submitted an addendum to the planning statement addressing light spill readings, connection to the electricity supply, responding to the comments from the Environmental Health Officer (EHO), and making general comment on the application. The points made are summarised below:

- Light Spill. A full light survey was conducted on 31st August 2010 to compare actual light spill levels on the boundary of the site against predicted levels on the submitted drawings (ref: 135673G Final\_Boundary Vertical Spill). The results of these readings are attached to the addendum and highlight that the actual readings are below the level predicted on the spill plans submitted with the application and

those approved under the previous scheme. The conclusion of the survey is that the revised locations of the columns do not impact upon light spill readings. A copy of this report was also sent to NBC Planning and Environmental Health.

- Electricity Supply. A letter from statutory undertaker EON has been provided confirming an agreement with the Cricket Club to provide a connection to the mains supply. The addendum states that work on this connection will commence on January 10th 2011 and that work will be complete prior to the 2011 cricket season.
- Response to EHO comments. The addendum notes the comments made by the EHO but suggests that the existing conditions are adequate to control the amenity of adjacent residents with regard to amplified music. It is stated that the television screen used at matches does not require planning permission and falls outside the scope of this application.
- Other representations. Responses are made with regard to visual and appearance, essentially reiterating comments made in the original planning statement.

## **8. Site History**

- 8.1 N/2009/0214 – Erection of two new spectator stands. Approved by NBC.
- 8.2 09/0061/FULWNN - Erection of two commentary boxes, camera gantry, extension to pavilion and installation of Six 48m Floodlights. Approved 6th October 2010.

## **9. Evaluation**

- 9.1 The current application is a full planning application for the retention of the six floodlights and associated equipment that have been erected at the cricket ground. In this sense, many of the material considerations that were previously considered are still relevant to this application. The previous report (attached at Appendix A) noted that the principal issues for consideration were; impact upon the viability of the cricket club; visual impact on the surrounding area; impact upon the character and appearance of the Abington Conservation Area; impact upon the setting of the Grade II Abington Cottages; impact upon residential amenity as a result of noise and light spill; and impact upon highway safety and car parking.

- 9.2 These issues are still relevant to the application and further comments will be set out in relation to these matters below. In addition, responses from residents and the EHO have commented upon the impact of the temporary generator that has been needed to power the lights due to the failure to connect to the mains supply. Comments will also be made in respect of this issue.
- 9.3 However, in assessing all of these issues, it is important to note that the current application should not be seen as the opportunity to re-evaluate the basis upon which the previous decision to approve floodlights was made. Officers maintain that the evaluation of the previous scheme was thorough and appropriately addressed the relevant issues. The decision to approve the floodlights was taken and that permission is still a valid consent. In other words, the principal of floodlights at the ground has been established and the 'fall-back' position for the cricket club would be to erect the floodlights in the position as approved under the previous application (ref:09/0061/FULWNN). Any decision taken on the current application does not rescind the previous approval.
- 9.4 Therefore, the appraisal of the current scheme must consider the fall-back position as a material consideration in the decision making process. In this regard, the current assessment is not intended to review the merits of the previous decision but must essentially compare the variation in impact between the approved scheme and the scheme as it has been constructed.
- 9.5 As noted above, WNDC is not the enforcement authority for planning control and this rests with NBC. If members were minded to refuse the current application, the same consideration would need to be taken into account by the enforcement authority in determining whether it was appropriate to enforce against the position of the floodlights. Whilst officers acknowledge the frustration of local residents with regard to the process in terms of established planning practice, members must be mindful of the previous decision and precedent that has set in making a decision on the current scheme.
- 9.6 The report below will seek to address the key planning issues in relation to the scheme, whilst being mindful of the precedent of the previous approval:

## Visual Impact and Impact Upon the Character and Appearance of The Abington Conservation Area

9.7 The floodlights as erected are clearly of a significant scale and can be seen from various vantage points in and around the town both in the local area and further afield. This was acknowledged in the report to committee in relation to the previous application. The comments made in that report are repeated below and are still considered to be relevant and valid in terms of the current scheme:

*The visual impact can be categorised into three areas – immediate impact when viewed from dwellings directly along the boundary of the cricket ground, medium range impact when viewed from surrounding streets and vantage points, including Abington Park and Conservation Area, and the long range impact from more distant areas in the town.*

*With regard to the immediate impact from the dwellings backing directly onto the ground, the primary view in the normal eye line would be of the columns, rather than the lighting heads, due to the height of the structures. The columns are relatively slender structures with a maximum width of just over 1 metre at the base. For those dwellings that immediately back onto the columns, this should not cause any significant overbearing impact, or lead to any undue loss of outlook. Whilst they would be clearly visible from this aspect, it is not considered that this would have an unreasonable impact on views from the rear of adjacent dwellings.*

*The medium range views of the lights would effectively come from the residential areas surrounding the site, and from within Abington Park. A number of residents have raised concerns that the proposal is out of scale with the surrounding buildings and would dominate the skyline, to the detriment of the character of Abington Park Conservation Area. In his assessment of the proposal, NBC's Conservation Officer noted that the lights would only be visible from selected vantage points within the Conservation Area, for example in gaps through buildings and trees in the Park. In his opinion, the lights would not dominate the Conservation Area and the impact would be neutral. Saved Policy E9 of the Northampton Local Plan identifies Abington park as a locally important landscape area and, consequently, any proposals must be judged against their potential impact on this landscape. WNDC officers agree with the assessment of NBC's Conservation Officer and do not feel that the proposals would significantly alter the*

*character of the landscape in and around Abington Park. The floodlights would be viewed from vantage points within the area but would not dominate the skyline. The existing character of mature parkland, surrounded by sizeable Victorian and Edwardian development would remain.*

*The same principle is relevant when viewing the proposal from the surrounding residential streets. Due to the high density terraced layout of the surrounding area, the lights would not be readily visible from most aspects within surrounding streets. They would be visible from certain fixed vantage points, such as at gaps between buildings, street corners etc. Although visible, they would not dominate the street-scene.*

*In terms of long range views, the floodlights are likely to be visible from higher vantage points within the town, for example, the temporary lights were clearly visible from certain aspects on Kettering Road as it rises up to the north. Although visible from wider viewpoints, the lights would not appear as an unusual feature in the middle of a large urban area. Most large towns have floodlit facilities of one form or another and at wider vantage points, the proposal would not therefore appear as an incongruous feature.*

9.8 The Conservation Officer has re-stated his view in relation to the current application and does not consider that the floodlights have a negative impact upon the overall character of the Conservation Area. The lights are visible from areas within Abington Park but the lights tend to be viewed at glimpses between mature trees rather than as an ever present and over-bearing feature. Officers do not feel that they are the dominant feature from within the Conservation Area, or that they have detrimentally affected its character or appearance.

9.9 In terms of the current application, it is not considered that the change in position of the lights on the site has materially altered the visual impact in the surrounding area. The impact amended position of the lights is noticeable at close hand, within the ground and from properties immediately adjacent but this is not considered to impact upon the overall appearance in a wider sense.

#### **Impact Upon Abington Cottages (Grade II Listed Buildings)**

9.10 As above, the current position of the floodlights is not considered to have a materially greater impact upon the setting of the listed buildings at Abington Cottages and the

previous assessment is still considered to be valid. The Conservation Officer notes that the setting of the Cottages has altered significantly since their construction and that they are now surrounded by Victorian and Edwardian development, including the cricket ground. He considers that the lights are an extension to this historical use and that they do not therefore have a negative impact upon the status or special character of the listed building.

### **Residential Amenity**

- 9.11 The primary concerns of residents in this regard relate to increased noise and disturbance from night matches and objections to the level of light spill into their properties as a result of the lights. In addition, complaints have been received regarding the generator that has been used to power the lights, due to noise and emissions.
- 9.12 With regard to the lighting scheme, the previous scheme was approved subject to a detailed set of light spill drawings demonstrating the maximum permitted light levels into adjacent properties. This was discussed with the EHO who confirmed that the impact would be acceptable subject to a condition to ensure compliance with the scheme and an additional condition to limit the hours of operation.
- 9.13 Concerns were raised by a number of residents that the lights would no longer conform to the light spill standards as approved due to the fact that the position of the lights has now been amended. In response to this, the applicants have undertaken a light spill survey, based upon the submitted light spill drawings and have submitted the results in an addendum to the Planning Statement. This shows that the light levels on the ground are below the predicted levels on the spill drawings and therefore, that the lights are within the parameters previously agreed. The EHO is satisfied with the amended position of the lights in this respect and has requested that on-going monitoring and compliance is ensured through conditions, as previously attached.
- 9.14 It is therefore considered that the impact of this retrospective application in terms of light spill is acceptable and can be controlled adequately by condition.
- 9.15 With regard to noise, a number of residents have objected primarily due to the impact of loud music associated with the cricket matches and also due to fireworks being set off after the completion of a match during the course of the summer. As a result of

complaints, the EHO has requested a condition to require a survey of the noise levels of equipment used in connection with the cricket matches. A condition was attached to the previous consent with regard to amplified music as follows:

*No amplified music shall be played at the ground between the hours of 22:15 and 09:00. In the event that the match finishes prior to 22:15, any amplified music shall be turned off immediately upon the completion of play. Thereafter, the PA system shall only be used for the purpose of emergency or public safety announcements.*

- 9.16 This is considered to be a reasonable and enforceable condition in planning terms that would protect the amenity of adjacent residents by preventing music being played outside of reasonable hours. This is in addition to a restriction of no more than 15 matches per season. Officers are of the view that the current conditions, as proposed are adequate to protect amenity in relation to this planning consent. Clearly, there is a dual system of control and noise nuisance issues are covered under Environmental Health legislation. The planning permission for the use of floodlights and night-time cricket does not permit the club to contravene other legislation in place and does not automatically deliver the right to play music at volumes that would impact upon public health.
- 9.17 In terms of the mobile generator that has been used to power the lights, the club have confirmed that a contract has now been signed with EON, the statutory undertaker, to connect the lights to the mains supply. The club have stated that this will be undertaken in January 2011 and completed prior to the next cricket season. Once this work is completed, the need for the generator will be removed.
- 9.18 In the view of WNDC officers, the impact of the scheme can be adequately controlled through the imposition of conditions as recommended in this report. These conditions meet the legal tests for planning conditions and are considered to be enforceable in relation to the future operation of the cricket ground. Comments and complaints have been received stating that the Cricket Club has already breached conditions and is unlikely to comply with these conditions in future.
- 9.19 As discussed above, at present, the lights do not benefit from planning consent and thus, the conditions attached to the previous planning consent do not apply to the scheme.

It simply represents an unauthorised development in planning terms. This presents difficulties for the enforcement authority in the ability to serve breach of condition notices. However, should members resolve to approve the application subject to the conditions set out the approved scheme and its conditions would be enforceable in future should any breaches occur.

- 9.20 In view of the above, it is considered that the impact of the scheme as erected would not have any greater impact upon residential amenity than the previously approved development. Officers are happy that the suggested conditions are adequate to control the impact on neighbouring amenity to an acceptable level.

### **Traffic/ Car Parking**

- 9.21 Issues of traffic and car parking were addressed in the previous report attached at Appendix A. The current application will not alter the context of the previous assessment which is still valid in this respect.

## **10. Conclusion**

- 10.1 On balance, it is considered that the retrospective application should be approved on the basis that the scheme will bring benefits to the wider area in terms of improved County level sports facilities and that, although the lights form a prominent feature within the town, this is not to the detriment of the adjacent Conservation Area, Listed Building, or the wider character of the town.
- 10.2 Local residents have expressed genuine concerns regarding the impact of the lights and the ability to enforce any conditions that may be attached to the planning permission. However, officers are of the view that the recommended conditions are enforceable and will provide adequate protection to ensure that the use of this facility does not have an unsuitable impact within the local area. It is therefore recommended that the scheme is approved subject to the following conditions:

## **11. Conditions**

1. The floodlights shall be used for a maximum of 15 days per year (between 1<sup>st</sup> April and 30<sup>th</sup> September only) to enable the staging of cricket matches and shall not be used for any other purpose.

Reason: To control the number of night time cricket matches and ensure that the floodlights are used in connection with the sporting use of the ground, in the interests of the amenities of surrounding occupiers, in accordance with policy E20 of the Local Plan.

2. The floodlights shall not be switched on between the hours of 23:00 and 09:00. In between the hours of 22:15 and 23:00, the floodlights shall only operate at a maximum of 100 Lux (as shown on the submitted plans entitled “Exiting and Work 100Lux 135673E- rev1 Glare and Worklights” and “Exiting Work and Spill 135673E- rev1 Spill”). In the event that the match finishes before 22.15, the floodlights shall be turned down to operate at a maximum of 100Lux, immediately upon the completion of play.

Reason: To protect the amenities of adjacent residents and to ensure the safety of spectators and club officials when exiting the ground.

3. The levels of light spill into adjacent properties shall be in accordance with the levels shown on the approved light spill plans numbered; 135673E – rev1 “Illumination Summary”. On site readings should be within 10% (+ or -) of the specified readings to allow for operational, weather and atmospheric conditions. A scheme identifying how the light spill from the floodlights will be monitored shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of work on the development. This shall include an annual monitoring report with on-site meter readings at agreed locations surrounding the ground (as compared to the levels proposed within the approved drawings). The results of this annual survey shall be submitted to the Local Planning Authority. If the on-site Lux values exceed the figures in the approved plans, a scheme identifying measures to address the light spill shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the floodlights shall not be used until any proposed mitigation measures implemented in full, in accordance with the approved details.

Reason: To ensure that levels of light spill are controlled to an acceptable degree, in the interests of residential amenity.



## APPENDIX B – Update Sheet to Committee on 5<sup>th</sup> October

### Agenda Item 5:

Applicant: Musco Sports Lighting

Application No: 10/0097/FULWNN

Address: Northampton County Cricket Ground

Description: Retention of Six Floodlight Columns (48m in height) and a GRP Switch Cabinet

### Additional Consultation Response

#### NBC Planning

A report was placed before NBC's Planning Committee on 30<sup>th</sup> September. At that meeting, members resolved to raise no objection to the application, subject to the following:

- That the use of the lights is limited to a maximum of 15 days per annum and only between the months of April to September inclusive.
- That the light levels are reduced at the conclusion of play or 22:15 hours (whichever is the earliest) and that a detailed plan identifying the spill levels associated with this lower level of light shall be submitted to and approved in writing by the Local Planning Authority prior to their next use.
- A scheme requiring the applicant to undertake regular surveying of the light levels in order to ensure that they do not exceed the levels submitted as part of the application.
- That the lights are not used until they have been connected to a mains electricity supply in order to avoid the continued need to operate a generator, which has and could continue to harm residential amenity. It is noted that the submitted information states that this work will commence in January 2011.
- In order to minimise the impacts on surrounding properties, a condition requiring that use of public address systems cease following the conclusion of play for the purposes of commentary and the playing of music in keeping with the requirements of PPG17 and PPG24, which state that negative impacts on residents from such equipment should be minimised in order to protect residential amenity.

#### Response

The comments from NBC are noted and the issues of proposed conditions are covered within the main report to committee. Officers are satisfied that the conditions put forward within

the main report are adequate to protect residential amenity and do not recommend any changes in this regard.

#### **Foxley Tagg Ltd – on behalf of the applicants.**

In response to the letter submitted by David Lock Associates, on behalf of a number of local residents, Foxley Tagg Ltd. have submitted a further letter. In summary, this states:

- That a lighting survey was conducted in August 2010 and this demonstrates that the current position of the lights results in less light spill than the previously approved scheme.
- That the Conservation Officer is satisfied with the revised scheme
- That retractable lights were considered but the cost was prohibitive (up to 5 times the cost)
- That works to connect the lights to the mains will begin in January 2011 and this will be completed prior to the next cricket season
- The club maintain that the lighting system and PA have been used in compliance with the approved scheme
- The mobile screen does not need planning permission
- That the use and operation of the scheme has not been substantially altered by the amended position of the lights.

#### **Response**

The comments of this letter are noted. The issues raised are covered within the main report.

