



## MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 6 FEBRUARY 2024  
VIA A DIGITAL MEETING FACILITY

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor L Allan  
Councillor D Collins  
Councillor J Findlay  
Councillor A Forrest  
Councillor N Gilbert  
Councillor C McGinn  
Councillor S McIntosh  
Councillor K McLeod  
Councillor J McMillan  
Councillor C Yorkston

**Other Councillors Present:**

Councillor L Jardine

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Ms E Taylor, Team Manager – Planning Delivery  
Mr N Millar, Planner  
Mr C Grilli, Service Manager – Governance  
Mr C Clark, Senior Environmental Health Officer  
Ms P Gray, Communications Adviser  
Mr J Canty, Transportation Planning Officer  
Mr A Hussain, Transportation Planning Officer  
Mr E Hendrikson, Team Manager – Active Business Unit  
Mr G Miller, Team Manager – Capital Plan and Asset Management

**Clerk:**

Ms B Crichton

**Visitors Present/Addressing the Committee:**

Item 3: Mr P McDonagh, Ms E Hughes, and Mr S Miller

**Apologies:**

Councillor C Cassini

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL: PLANNING COMMITTEE, 5 DECEMBER 2023**

The minutes were agreed as an accurate record of the meeting.

**2. MINUTES FOR NOTING: LOCAL REVIEW BODY (PLANNING), 30 NOVEMBER 2023**

The Committee agreed to note the minutes.

**3. PLANNING APPLICATION NO. 23/01207/P – PLANNING PERMISSION FOR INSTALLATION OF FLOODLIGHTING, WINTERFIELD TENNIS COURTS, NORTH ROAD, DUNBAR**

A report had been submitted in relation to Planning Application No. 23/01207/P. Neil Millar, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers answered questions from Members. Responding to questions from Councillor Yorkston, Mr Millar explained that the outer ring of the displayed diagram, which should comply with a 5 lux light spill, did not encroach onto any part of a neighbouring house. Prior to use of the floodlights, the planning authority would, through testing, seek to ensure that a light spill level of 5 lux was achieved, which may require further mitigation such as baffles and cowls.

Responding to questions from Councillors Gilbert and McGinn, Colin Clark, Senior Environmental Health Officer, explained that different lighting levels were required for different sports, but the 5 lux criteria referred to light spill outside of the sporting arena which may impact upon the windows of sensitive receptors, such as neighbouring residential properties. He advised that the area was an E2 Zone, an intrinsically dark rural location, and compared this to the lighting levels allowed in a more built-up E3 Zone with less stringent criteria. In this specific location, a 5 lux light spill until 11pm would comply with statutory guidance.

Councillor McMillan asked whether there could be engagement with residents as part of the testing period. Mr Millar advised that planning conditions required submission of a validation report. He advised that objectors could be made aware of the feedback from that test on the planning portal, but reassured Members that the floodlights could not be used if the 5 lux criteria could not be met. Councillor McMillan reiterated his request that testing times be shared with residents so they could confirm accuracy and ensure there would be no additional light spill onto properties. The Convener thought it would be possible for residents to be present since testing was arranged by the local authority.

Councillor Collins said that residents had raised concern about the slow response to issues raised with light spill, and asked whether baffles could be fitted to all floodlights. The Convener suggested that conditions could be added for the installation of baffles and for issues to be dealt with quickly.

Mr Clark was wary of previous statements that there would be no light spill onto neighbouring properties; he confirmed that minimal light spill was acceptable so long as it did not exceed the 5 lux criteria.

Ed Hendrikson, Team Manager – Active Business Unit, spoke to the application. He said the application had been brought forward to find a balanced resolution following concerns raised by residents and the tennis club. The courts at Winterfield Park were held by the Common Good and the tennis club held a 20-year lease. He said the courts were well used, and funding for resurfacing and new floodlights secured in 2019 had resulted in increased use. He advised

that an independent validation test confirmed that the current setup could not satisfy the 5 lux overspill requirements, so this planning application moved floodlighting further away from housing. He said that a further independent validation report would be undertaken, and this information would be shared to reassure local residents. He said that not permitting any floodlighting on the site would reduce the time the courts could be used, particularly in the winter months. He provided information on: the courts' use by members, the general public, and local school pupils, with around 36 hours per week of activity; the engagement of the club in the Active Schools programme; and an overview of the wellbeing benefits of participation in the sport. He said floodlighting the three courts nearest the road allowed the courts' positive impact to be year-round and allowed environmental health requirements to be met, whilst also addressing the concerns of residents.

Responding to questions from the Convener and Councillor McGinn, Mr Hendrikson advised that it would be possible for residents to be onsite during the validation assessment. He advised of ways in which court use would be restricted should floodlighting not be provided, imposing a barrier to people taking part in the activity over the darker months and causing some to travel further afield.

Peter McDonagh spoke against the application. He said issues had begun following installation of floodlights in 2019, and said that the application would move the same issue 20m north. He considered allowing play until 11pm to be antisocial. He felt that the wellbeing benefits of tennis must be balanced against the detrimental impact on residents' physical and mental health and loss of amenity caused by 13.2 lux light overspill and noise from the courts. The current arrangement meant that one bedroom and study of his home had been lost to light spill, but said new proposals would see the whole rear of his home affected. He pointed out that floodlights at Hallhill were shut off at 10pm, but said that Winterfield lights remained on for a significant time after play had stopped due to there being no effective shutoff timer. He said residents wanted a curfew of 9pm with an effective shutoff mechanism. He noted that Dunbar Community Council were broadly in favour of the proposals but asked for these same fair and reasonable conditions.

Responding to a question from Councillor McMillan, Mr McDonagh described his house as being 24m from the floodlights on the eastern side. He said that previous reports had not indicated his home would suffer light spill, but it had since been measured at 13.2 lux. He did not believe that the new proposals would see light spill stop short of his home.

Councillor McIntosh asked about time restrictions at other sporting facilities. Mr Hendrikson advised that there was a difference between planning restrictions and how a club decided to use the time. He understood that a 5 lux light spill until 11pm was standard in an E2 zone, and the tennis club had activities on until 10pm. He highlighted that competitive tennis could go beyond 10pm to finish a match, but understood that activity 10pm-11pm was uncommon. Mr Clark added that 11pm had been taken from statutory guidance. He said that frequency of occurrence would be taken into account when considering whether late play could be considered a nuisance. Although 11pm had been applied per statutory guidance, it may be possible to further restrict time. He confirmed that light spill of only 1 lux was acceptable in an E2 zone beyond 11pm.

Responding to further questions from Councillor McMillan, Mr Clark advised he was unaware of noise complaints regarding the tennis club. He expected the validation report to assess potentially affected properties. The light spill levels could not be predicted and there could be some changes until the final set up was established. He acknowledged that light spill of 13 lux clearly did not meet criteria and reiterated that light spill must not exceed 5 lux. Mr McDonagh responded that it was common for lights to be on until 10.30pm and beyond, and estimated this occurred 20-40 times per year. He said that lights were also left on after play had ceased and people had left the courts. He said that residents had been in contact with environmental health for three years before an independent survey was undertaken.

Esther Hughes spoke against the application. She said that from her home's position backing onto the park, it was possible to use her kitchen at night without putting on the light. She acknowledged that the coastal location may have seen weather conditions affect the cowl's positions, but said it was clear that further modification was required to minimise light spill when she could see bare bulbs from her home. She highlighted Winterfield Park as an accessible dark space, which few towns had, and raised concern about the effect of floodlighting on local wildlife. She highlighted the presence of hedgehogs, migrating birds, and pollinating insects, and said that biodiversity had markedly increased through the efforts of various groups. She highlighted the effect of light pollution on the feeding and sleeping patterns of birds, and the negative effect on insects and bats when perceived day and night lengths were impacted. She reported that guidance for sports floodlighting said that nature should be exposed to as little LED light as possible through various mitigations. She felt that moving existing lights further into a nature habitat would adversely impact wildlife. She questioned why, if mitigations could limit light spill to 5 lux in these proposals, they had not been set up to do so in the existing arrangement, and further questioned why East Lothian Council proposed to use the same supplier. She felt that the application would be pushed through to the detriment of biodiversity. She asked Members to consider reducing the hours the lights were used, to ensure the cowls effectively stopped light intrusion, and to check cowl positioning following storms. She felt the planning process did not adequately take account of surrounding properties or users of the park at night.

Stewart Miller spoke against the application. He said that if restriction on use of the lights until 11pm was left in the hands of court users, it was likely that the same issues would be experienced. He felt that disruption caused to residents was not commensurate with the very low number of tennis court users at night, and said only 12 people could use three illuminated courts at any one time. He asserted that those using the courts at night were the same group of people. He said there was little faith that the lights would be properly run after they had been moved. He objected to more taxpayers' money funding proposals which would cause stress and inconvenience to even more residents to benefit only a small group of court users. He noted that schools did not use courts outside of daylight hours, and listed several ways in which he felt money could be better spent.

Councillor Jardine, Local Member, sought to provide a balanced view, said she valued the positions of court users and residents, and highlighted the Planning Committee's role in trying to achieve equilibrium. She spoke of her professional experience working with architects and designers, and their awareness of how light, colour, and texture impacted on how humans experienced the built environment. She had become increasingly concerned about the impact on the health of nearby residents, and reported having sat in nearby homes in winter and feeling as though car headlights were beaming into windows. She acknowledged that the lights would enhance the tennis players' experience and maximise their playing time. She also acknowledged that the residents considered their home to be a refuge and space to rest and recharge; she felt that the impact of the light on their retreat and rest must be recognised. She raised concern that the 2005 light engineer guidance provided as part of the application was not as robust as it needed to be due to the more recent proliferation of LED lighting. She was heartened that there was a commitment to a validation assessment following the relocation of the lights. She said it would be of crucial importance for the tennis club and residents to coexist in the space and she offered to help negotiate ways of working.

Councillor Collins, Local Member, reported that residents had been concerned about how they had been treated following their multiple attempts to make reports about light overspill. She felt that the lights being on so late was detrimental to sleep. She felt a compromise had to be reached on times the lights operated and asked that baffles be fitted on all lights. She advised that floodlighting at Meadowbank was shut off at 10pm, and felt that such a restriction would be beneficial to the health of residents.

The Convener, also a Local Member, commented that development of sport was a major area of investment for the council and facilities had been brought forward due to the multiple benefits provided. He acknowledged that outdoor sport was impossible in the winter months without floodlighting, and that tournaments which took place at the courts could not finish in darkness. He felt proposals sought to minimise impact on properties, and said any light spill reaching properties would be within the 5 lux limit. He highlighted the club membership and children's use of the courts, and said that more than 12 people could use the three illuminated courts if coaching was ongoing. He acknowledged the encouragement from Dunbar Community Council to consider measures that could minimise light spill. He said the issue of the 11pm shutoff had been discussed at the site visit; he reported that safety reasons meant that lights could not be automatically shut off without override, however, he said that action would be taken should the club operate beyond 11pm. He would support the proposals.

Councillor Findlay had consulted with Gullane and North Berwick Tennis Clubs and reported that their lights were shut off at 10.30pm. He therefore proposed that the time restriction be changed to 10.30pm, as this shutoff time was suitable to support these two very active clubs.

Councillor Allan thought participation in tennis was to be encouraged, but agreed that 10.30pm sounded like a more reasonable shutoff time. However, she thought that Gullane and North Berwick Tennis Clubs were situated further away from houses, and therefore proposed a shutoff time of 10pm, which she felt would be more suitable for Winterfield courts' surroundings. She thought that the current time of 11pm was far too late and would affect residents' sleep.

Councillor McIntosh seconded Councillor Allan's proposal of a 10pm shutoff time, as she felt it was unreasonable to ask residents to live with lights until 11pm. Councillor Findlay added that North Berwick Tennis Club was further away from houses, but advised that Gullane was fairly close to residential properties. He was content to support the proposal for a 10pm shutoff time and withdrew his earlier proposal for 10.30pm.

Councillor Forrest said that participation in sport was important for maintaining physical and mental health. He felt that a 10pm restriction would inhibit competitions taking place at the club, and may pose a barrier to participation for those who had to fit sport around their work. He would support the officer recommendations and would not support a 10pm shutoff.

Councillor McGinn supported the officer recommendation, but also appreciated the in-depth knowledge Local Members had of the area. He was pleased that tennis had become more accessible in East Lothian. He thought that officers had worked to establish compromises to try to bring along communities. He was confident that there were safeguards in place to address any problems.

Councillor McMillan said he would have appreciated hearing from the club about their management of the lighting and their relationships with neighbours. He thought the proposals would enhance the wildlife around the park and coastline whilst creating a balance with the activity. Considering the cost and benefit, he thought the proposals should go ahead because of the reduction of light spill to neighbours. He hoped that the club would think about its relationship with neighbours, look to manage potential noise and light spill, and ensure lights were switched off at the right time; he thought it was right to give the club this responsibility, and reminded neighbours that problems could be reported through environmental health.

Councillor McLeod thought that the timing issue was unified throughout the county. He would support the officer recommendation.

Councillor Collins supported the development of the sport, but said that children would not be playing late at night. She thought that a shutoff time would be useful, with possible exemptions for competitions, and suggested 10.30pm would provide some compromise. She said that

residents had lost trust in the system following a three-year loss of amenity. She reiterated that she would support a reduction in time and installation of baffles.

Councillor McIntosh suggested Mr Hendrikson take away an action to liaise with the club and produce an operational plan to habitually turn off the lights off at 10pm, apart from in specific circumstances, and also to undertake consultation with residents.

The Convener thought discussions would be held between the Landscape, Sport, and Countryside team and the tennis club about neighbour relations following the points raised. He said efforts must be made to rebuild relationships and for the tennis club to keep late nights to an absolute minimum. He proposed that Members approve the recommendations contained within the papers but asked officers to work with the club to help improve relationships.

Councillor Allan was concerned that asking relationships to improve provided no guarantee. She would not support the application if no time restriction was made.

Mr Millar advised that conditions could only be imposed if it met the test of the Use of Conditions per the Planning Circular, and one such tests was necessity. He said that restricting the floodlighting until 10pm would not be necessary because the floodlights would meet the 5 lux criteria up until 11pm, which the council's Senior Environmental Health Officer advised would accord with Scottish Government guidance on Statutory Nuisance Provisions. He suggested that Members could decide to set a control on times of use through the lease agreement, given that the council was the landowner. The Convener responded that operating times could be discussed between the council and tennis club, but this would have to concur with operational needs and he felt this should be dealt with outwith the planning process.

Mr Millar reiterated advice that there was no planning reason that the lights could not be on until 11pm. On this basis, Councillor McIntosh withdrew her seconding of the proposal for a shutoff time of 10pm. She said that she would still like for the club to habitually shut off the lights at 10pm, but agreed that the matter may be best pursued through other means. Councillor Allan withdrew her proposal for a 10pm shutoff on the basis that it was not a competent amendment, but still wished for options to be pursued through other means, such as an amendment to the lease. The Convener suggested that this would have to be negotiated with the club through Sport, Countryside, and Leisure.

The Convener then moved to a roll call on the officer recommendation to grant consent, and votes were cast as follows:

Grant:	8	(Councillors Hampshire, Allan, Forrest, McGinn, McIntosh, McLeod, McMillan, and Yorkston)
Refuse:	0	
Abstain:	3	(Councillors Collins, Findlay, and Gilbert)

## Decision

The Planning Committee agreed to grant the application, subject to the following:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 If the floodlighting columns and/or lamps are to be painted, a sample of the paint colour(s) to be applied to them shall be submitted to and approved in advance by the Planning Authority and thereafter the paint colour(s) applied to the floodlighting columns and/or lamps shall accord with the sample so approved unless otherwise approved by the Planning Authority.

Reason:

In the interests of preserving the character and appearance of the area.

- 3 The lamps on top of each of the eight lighting columns hereby approved shall at all times be positioned, directed and shielded so as to focus the light from them downwards onto the surface of tennis courts 4, 5 and 6 to the satisfaction of the Planning Authority. The lighting shall thereafter be maintained as such unless the Planning Authority gives written consent to any variation.

The design and construction of any proposed floodlighting shall take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. In particular, the floodlighting hereby approved shall at all times comply with the following criteria:

Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 5 between the hours of 0700-2300 and shall not exceed 1 between the hours of 2300-0700.

Reason:

To prevent lighting from spilling onto neighbouring land, in the interests of safeguarding the amenity of nearby residential properties, the character and appearance of the area.

- 4 Prior to any use being made of the floodlights hereby approved a lighting validation report shall be submitted to and approved in writing by the Planning Authority. The validation report shall confirm that light trespass onto windows of neighbouring residential properties complies with the criteria set out in condition 1 and, if necessary, shall specify mitigation measures to ensure that this criteria can be met. The floodlights shall thereafter operate in accordance with the details and, if relevant, mitigation measures so approved.

Reason:

To safeguard the privacy and amenity of neighbouring residential properties in accordance with condition 3.

- 5 Prior to commencing the works the Council's tree officer shall be informed of the start date. The applicant and/or their contractor shall arrange a site meeting with the Council's tree officer prior to breaking ground and to agree a method statement and arboricultural watching brief throughout all trenching works. The applicant and/or their contractor shall accord with the Council's tree officer's instructions in respect of all works that may affect the existing trees and their roots.

Reason

To safeguard the existing trees and their root plates.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee