

## APPENDIX 3

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
<b>HBG Construction 'B'</b>	Retrospective planning application for the erection of lighting on the grounds of Meadows First and Parkside Middle School, Stourbridge Road (As amended by drawing received 24.09.2008. As amended by lighting spill to access road details received 29.09.2008. As augmented and amended by Supporting Statement received 12.11.2008. As augmented by Details of Bollards received 13.11.2008.)	Res	<b>B/2008/0675</b> 09.12.2008

Councillor E. J. Murray has requested that this application be considered by the Committee, rather than being determined under delegated powers.

**RECOMMENDATION:** that planning permission be **GRANTED**.

### Consultations

WH	No objections, subject to conditions. 22.09.2008.
EHO	Raised issues of clarification with agents by email. 29.09.2008.
RA	Examined lights on site. No adverse comment to make. 26.09.2008.
PROW	Consulted 12.09.2008. Response awaited.
Publicity	Site notice displayed 24.09.2008; expires 15.09.2008. Press Notice published.
	Seventeen letters sent to neighbours, expired 07.10.2008.
	Six specific objections received: <ul style="list-style-type: none"><li>▪ Proposed amendments to existing lights are inadequate to address concerns.</li><li>▪ Request additional time to respond to application.</li><li>▪ Queries as to whether scheme includes CCTV poles.</li><li>▪ Has no concerns with CCTV poles as long as there is no loss of privacy.</li><li>▪ Part of lighting system installed without consent (in January). This caused significant disturbance to residents as lights were left on throughout the night. EHO visited the site to assess the impact. Following complaints, the lights were turned off but this has been unreliable.</li><li>▪ Intensity of lighting is unacceptable; use of louvers will just reflect light on to school which, in turn, will reflect back onto dwellings. There are already 8 bulkhead lights on the building which add to light on the boundary. Suggest that the wattage of these lights is reduced.</li><li>▪ Number and intensity of lights in the car park areas is greater than those used in the Council's own car parks.</li><li>▪ Columns are too tall, there are too many lights.</li></ul>

- It will not be acceptable to attach conditions to control lights as applicants have shown their inability to control the lights in the period since they have been erected.
- Suggest shorter columns are used with angled lights. Columns 1 - 4 should be removed and replaced with lower key lights which provide illumination suitable for use of access road by vehicles.
- Questions display of site notice.
- Refers to lights being in use in advance of application being taken to Planning Committee.
- No effort made to shield adjoining dwellings from light pollution.
- Refers to number of lights on other car parks (Asda has 7 doubles, Artrix has 16 singles) and those at edges are shielded.
- Design of scheme not compliant. Will cause glare and light spill into homes. Light emitted is disproportionate to their purpose, given that 1 - 4 light a service road and this is not related to the community use of the site.
- Waste of energy; no energy saving suggestions.
- Poles are unsightly in day time.
- Light pollution will create an offence under 'Clean Neighbourhood and Environment Act 2005' which will be prejudicial to health.
- Other schools do not have consent for lights.
- Wider context view has not been considered.
- Lights represent an invasion of privacy, both internally and externally.
- Consider lights to be a statutory nuisance and represent light pollution, being prejudicial to health and a nuisance.
- Suggested modifications to lights as a result of fitting louvers will do little to reduce the 20 lux pools of lights under the columns, just 2 - 3 meters from the boundary.
- Reference is made to the inefficient and erratic operation of the lights throughout the day and night since their installation. This gives no confidence in the applicant's ability to control the system in the future.
- Calls on the Council to ensure that the nuisance residents have experienced is stopped.
- Request Members visit the site at night to assess the impact and that they visit resident's gardens and homes also. Request EHO accompanies visit and that the writer addresses Planning Committee when the application is determined.

In addition to these letters, residents have sent in a significant number of email communications to the Enforcement Officer, Environmental Health and the Planning Department informing officers of the numerous instances when the lights have been in use outside the agreed hours of operation.

## The site and its surroundings

The application relates to the newly constructed Meadows First and Parkside Middle School, sited to the south of The Flats and west of Stourbridge Road, Bromsgrove.

The application is submitted by HBG Construction, who are now known as BAM Construction Ltd.

As defined by the application drawing, the site extends to 2.01 hectares and includes the car park and the immediate area around the school and the main play areas.

## Proposal

The application is retrospective with the form describing that works commenced on 1st February 2008. The application relates to the erection of a total of 23 lighting columns. These lights are arranged in three main groups.

1. Numbers 1 - 7 are sited along the northern boundary and adjacent to existing residential properties.
2. Numbers 8 - 17 serve the main car park area.
3. Numbers 18 - 23 serve the play area for KS3.

There are two types of lights the majority are 6m high aluminium poles with lamp heads whilst number 19 - 23 are low level bollards.

The application is accompanied by a light spill plan (amended 24.09.2008), a light spill report (amended 29.09.2008) and a design and access statement. This statement sets out that the lights have been installed so as to ensure safe access and egress to the school and around the school, including the community use, and that these are lit to an appropriate standard.

A supporting statement has also been received (12.11.2008) which sets out that there is a lighting strategy comprising three zones:

- The School Building (Zone A) - 37 no. bulkhead mounted lights positioned at intermediate points on the building to light immediate surroundings. As noted, planning permission is not required for these lights.
- Service Road (Zone B) - 6 no. 6 metre high column mounted lights positioned at 23 metre centres in the verge to the north of the access road (that is, lights 1 - 7).
- Car Park (Zone C) - 13 no. 6 metre high column mounted lights and 5 no. bollards positioned at intermediate points within the landscaped areas to light the car park.

A full copy of this document is included in **Appendix 1**.

The School has been constructed against planning application B/2005/1001. This consent did not propose lighting to the car park or access road and, as such, that planning consent did not grant consent for the lighting columns. Given the size and permanency of the structures, I am of the view that they constitute an engineering operation for which planning permission is required. The school is not granted any 'Permitted Development' by virtue of the General Permitted Development Order which

would remove the need to expressly apply for that Consent. This fact is not disputed by the applicants.

For clarity, the lights mounted on the walls of the School (bulkhead lights) are not considered to represent development and, as such, do not form part of this submission or its assessment.

### Relevant Policies

WMSS    QE1, QE3  
WCSP    CTC.1, RST.3  
BDLP    DS13, S28, S31, RAT8, RAT12  
Others   PPS1

### Relevant Planning History

The site has an extensive planning history, but of most relevance are:

- B/2005/1001    Construction of new First / Middle school with associated sports areas; landscaping; car parking and access alterations (revised scheme to relocate school and footpath). Granted 11.11.2005.
- B/2005/0485    Construction of First / Middle School with associated sports areas; landscaping, car parking and access alterations at Meadows First and Parkside Middle Schools, Stourbridge Road, Bromsgrove. Granted 16.09.2005

### Notes

I consider that, given the policies listed above, this application raises two issues:

1.    The impact of the development on the visual amenity of the area and
2.    The impact of the development on the residential amenity of the nearby residents.

This application is located in the residential area as defined by the Bromsgrove District Local Plan. Whilst saved policy S31 of that plan relates to development at Educational Establishments, it refers to development not being permitted which would result in a loss of sports facilities. It states that the Council will consider favourably development required to facilitate the provision of education and training or for purposes ancillary to that.

New and enhanced community facilities are supported by policies S28 and RAT8 which, of course, are relevant to the approval of the application for the erection of the school in the first instance, and its associated community use agreement. Policy DS13 refers to the need for development to safeguard and improve the quality of life of residents.

### Why is lighting required along the northern boundary?

The site is part of the Private Funding Initiative (PFI) programme; a scheme which includes considerable benefits to the local community as well as to the staff and pupils of

the new schools. Community use of the buildings outside core hours is an integral part of this approach and is controlled through the contractual obligations of the developer and the Local Educational Authority, as well as being linked to the planning process via the consultations with Sport England.

Another part of that contractual obligation is ensuring the safety and security of users of the school at all times as well as the building itself. The supporting statement states:

- '4.5 ... The PFI build specification indicates that in order to achieve a satisfactory level of safety and security, lighting will need to be provided that meets standards set out in the Secure By Design for Schools, CIBSE guide, BB87 and BB90 as well as the relevant BREEAM criteria which draws upon specific reference to CIBSE LG6 and the ILE Guidance for external lighting.
- 4.6 Significantly, the CIBSE LG6 guidance lighting level (Educational Precincts) has been utilised for perimeter zone as required.'

It is against this specification and requirement that the scheme has been designed. To omit or reduce lighting along this boundary below that which is proposed would remove the ability of the developers to comply with this requirement.

#### Why the lighting cannot be provided by shorter columns and or more spaced out columns?

This would mean the developers would be failing to comply with the standards set out in the Secure By Design for Schools, CIBSE guide, BB87 and BB90, as well as the relevant BREEAM criteria which draws upon specific reference to CIBSE LG6 and the ILE Guidance for external lighting. As a consequence, they would be failing to comply with their contractual obligations and, therefore, the community benefits associated with the school would not be able to take place. This would have serious consequences for the PFI programme.

#### Are the lights acceptable in their current form?

As installed on site, none of the lights have louvers fitted. An email from Interserve (the lighting provider at the site) on 16.10.2008 sets out that whilst the current situation provides no sky glow and no upward light ratio, that vertical luminance on the houses along the northern boundary was an average of 4.19 lux (15.18 Lux maximum) observed at 1.6 metres in height above ground. In the context of the site (Zoned as E2: Low District Brightness area; that is, rural, small villages or relatively dark Urban areas) it is the view of the EHO that these lights cause harm to the amenity of residents.

The submitted drawing which shows the lux plot of light spill (Revision 03, amended 24.09.2008) sets out the position when louvers are fitted to columns 1 - 4 inclusive (louvers do not affect required light levels, but control back spill). This provides for no sky glow and no upward light ratio and a reduction in vertical luminance on the houses along the northern boundary to an average of 0.7 lux (3.08 Lux maximum) observed at 1.6 metres in height above ground. Source intensity and pre and post curfew cd/m<sup>2</sup> are also provided at the request by the EHO.

The Institute of Lighting Engineers (ILE) guidance note sets out light limitations for exterior lighting installations in a variety of Environmental Zones. The fitting of louvers to these lights will reduce light trespass onto windows pre-curfew to 3 lux (maximum is 5), and source intensity pre-curfew to 0.258k cd (maximum is 7.5 k cd). In addition, the ILE uses 11.00 p.m. as a guide time for a curfew, whereas the applicants are suggesting a 6.00 p.m. curfew along the northern boundary and 10.00 p.m. on the rest of the site.

The applicants have demonstrated therefore that after the fitting of louvers to columns 1 - 4, the design will comply with the ILE guidance and that, as a consequence, the amenity of residents along that boundary will not be harmed as a result of the development. Clearly, the addition of the louvers to the lights on site will need to be controlled by a suitable and time bound condition.

I note the form, height and location of the lighting columns. In the context of the site, its size and the relationship of the columns to nearby residential properties, I do not consider that the design or appearance of the structures is harmful or out of keeping. In relation to the wider context, I note the existing street lights provided on the public highway surrounding the site and their relationship to existing properties and this does not lead me to believe that the design or appearance of the columns is harmful to the more general street scene.

#### How can the hours be controlled given previous problems?

The lighting system for the site and other PFI schools is controlled centrally at North Bromsgrove High School. Problems have arisen in the recent months when there has been manual switching of lights taking place by third party users for Health and Safety reasons. The supporting statement proposes the following lighting strategy:

1. School Building Bulkhead Lights (Zone A) (not subject to planning application B/2008/0675) - Lights are timed to come on at 6.45 a.m. and go off at 6.30 p.m., and further controlled by a light sensor so the lights automatically turn themselves off between these times during daylight hours. Outside these hours, lights are controlled manually by the building manager during community lets. These lighting times will need constant review during the winter months as, without these lights, the CCTV system does not operate effectively. However, Members are reminded that these lights are not part of the current planning application.
2. Service Road Lights (Zone B) - Lights are timed to come on at 7.30 a.m. and go off at 6.00 p.m., and further controlled by a light sensor so the lights automatically turn themselves off between these times during daylight hours. These lights will not be switched on outside these hours unless in an emergency and the circuit is configured so that they do not come on at the weekend.
3. Car Park Lights (Zone C) - Lights are timed to come on at 6.45 a.m. and go off at 6.30 p.m., and further controlled by a light sensor so the lights automatically turn themselves off between these times during daylight hours. The circuit is configured so that they do not come on at the weekend. Outside these hours when the buildings are being used by the community, the car park lights will be turned on manually by the building manager and off manually when everyone has safely left the building and car park. As outlined above, community use runs until

9.30 p.m. so the lights are switched off at 10.00 p.m. to allow for safe egress from the site.

The applicants have been asked to set out how they will comply with these time restrictions. They state that: *"The timings would be controlled through a specialist piece of control equipment that controls all of the mechanical and electrical services in the new school from boilers to toilet ventilation. Once the perimeters are set up and input into the computer, they can only be changed by revising that input data or by manually overriding the control equipment on site. The problems we have encountered and which we are being criticised for is that we have tried to reduce the amount of time the lights are on by operating them manually. This leads to human error when the caretaker forgets to turn them off. If a realistic curfew is imposed, then this risk can be taken away and the whole system becomes fully automatic.*

*"Whilst there have been some instances when the lights have been left on in error (human error), these have been few and far between. The lights to the access road are never on after 6.30 p.m. and these are the lights that impact the residents who have complained.*

*"It might be of interest but Worcestershire County Council have access to the control equipment at County Hall and can monitor the whole thing remotely, although they cannot change any of the settings."*

### Conclusions

The lighting onsite does not have the benefit of planning permission and, in its current form, is unacceptable with respect to its impact upon the amenity of residents living along the northern boundary of the site.

The Applicant has devised a lighting strategy that, following the fitting of louvers to various lights, accords with the necessary requirements. This approach is supported by the EHO. The applicants have also put forward a lighting strategy with respect to curfew times which accord with the views of the EHO. Whilst it is the applicant's responsibility to ensure compliance with those conditions, in the context of recent problems, a method statement as to how this can be achieved on site has been requested and Members will be updated at the meeting.

The applicants have set out the need for the development in relation to the applicant's appointment as a PFI which includes contractual obligations to provide a development that will ensure the security and safety of users of the school at all times. The PFI build specification indicates that, in order to achieve a satisfactory level of safety and security, lighting will need to be provided that meets standards set out in various technical notes.

It is also a contractual requirement of the PFI programme that facilities provided as part of new school developments should be made available to the local community outside of core school hours. The Applicant has received a wide range of requests from local groups and organisations that wish to use the school outside school hours and these are being taken up on the site at present.

I conclude that, subject to the use of appropriate conditions relating to the addition of the louvers and time limits relating to the operation of the lighting, the development would accord with the policies of the development plan and would not cause harm to the amenity of residents.

**RECOMMENDATION:** that planning permission be **GRANTED**:

1. Light columns numbered 1 - 6 inclusive (as indicated on drawing MP/E/208 Rev 04 received 11.06.2008) shall be fitted with Phillips 83309500 back Louvre for a ZGS253 fitting. Those Louvers shall be fitted in their entirety by 12.01.2009 and shall be retained as such for the life of the development hereby approved, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development does not cause harm to the amenity of residents, in accordance with policy DS13 of the Bromsgrove District Local Plan 2004.

2. Light columns numbered 1 - 6 inclusive (as indicated on drawing MP/E/208 Rev 04 received 11.06.2008) shall only be operational between the hours of 7.30 a.m. and 6.00 p.m., Mondays to Fridays inclusive, and shall not be used on weekends or Bank Holidays, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development does not cause harm to the amenity of residents, in accordance with policy DS13 of the Bromsgrove District Local Plan 2004.

3. Light columns numbered 7 - 23 inclusive (as indicated on drawing MP/E/208 Rev 04 received 11.06.2008) shall only be operational between the hours of 6.45 a.m. and 10.00 p.m., Mondays to Fridays inclusive and shall not be used on weekends or Bank Holidays, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development does not cause harm to the amenity of residents, in accordance with policy DS13 of the Bromsgrove District Local Plan 2004.

#### Notes

1. This decision has been taken having regard to the policies within the West Midlands Regional Spatial Strategy (WMRSS) June 2004, Worcestershire County Structure Plan (WCSP) June 2001 and the Bromsgrove District Local Plan January 2004 (BDLP) and other material considerations as summarised below:

WMSS	QE1, QE3
WCSP	CTC.1, RST.3
BDLP	DS13, S28, S31, RAT8, RAT12
Others	PPS1

It is the Council's view that the proposed development complies with the provisions of the development plan and that, on balance; there are no justifiable reasons to refuse planning permission.

2. HN15

APPENDIX 3