Recommendation Report for Planning Permission

REF NO: M/74/24/PL

LOCATION: Middleton Sports Club
3 Sea Lane
Middleton-on-sea
PO22 7RH

PROPOSAL: **Provision of 6 No. new lights to 2 No. existing tennis courts. This application may affect the setting of a listed building and is in CIL zone 4 (zero rated) as other development.**

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to provide 6 lighting units, on 3 existing posts and 3 new posts, serving 2 existing tennis courts.
TREES	There are a number of mature trees along the west and southern boundaries of the site that would help to obscure and dampen light spill from the new lighting units.
BOUNDARY TREATMENT	The west and south site boundaries are of note, featuring metal fencing with netting and substantial, mature and early mature trees and shrubs.
SITE CHARACTERISTICS	The site is the has a number of recreational sports facilities including 6 tennis courts, of which 4 have lighting.
CHARACTER OF LOCALITY	The site is in Middleton-on-Sea and its Area of Character. The area is characterised predominantly by residential uses but has the various retail facilities to the northeast.

RELEVANT SITE HISTORY

M/57/06/	15 floodlighting columns 6.7metres high for four tennis courts.	ApproveConditionally 01-08-06

M/57/06 - granted permission for lighting columns to serve 4 courts immediately adjacent to those that are the subject of this application. The permission allowed the use of the lights until 22:00.

REPRESENTATIONS

Middleton Parish Council - Objection:
- They would remove their objection if conditions are imposed. They are as follows.
- The development will be begun within 3 years.
- No use of lighting after 2200 hours.
- If any trees or plants to the western boundary are lost, removed, or seriously damaged/diseased within 5 years of the completion of the development, they shall be replaced with similar.

- The floodlights and columns shall not be painted other than such colours as to be agreed in writing with the Local Planning Authority.
- The floodlights hereby approved shall at no time exceed obtrusive light limitations. In particular all steps must be taken to ensure that there is no harm to the amenities of nearby properties, most notably High Barn, which is south of the proposed lights. Barn door cowls/screens fitted to the lights must be fully operational at all times and if defective the lights must not be used.
- The floodlighting shall only be used while the courts are in use.
- No lighting fitment shall be installed or operated from which the source of the light is directly visible from the highway.

Middleton-on-Sea Association:
- No objection subject to Arun DC being satisfied there will be no adverse impact on the Area of Character or the amenity of residents.

1 No. objection from nearby occupier:
- Concerns for additional light pollution.

1 No. support from nearby occupier:
- The floodlights are important for the club going forward.
- Noting curfew would be maintained.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. All conditions requested by the Parish Council are acceptable to the applicant. However, a condition must be necessary, relevant to planning, relevant to the development proposed, enforceable, precise, and reasonable in all other aspects for it to be a legally compliant planning condition. Not all of the conditions suggested by the Parish Council meet these tests and some are thought to benefit from re-wording or alternative conditions. Alternative conditions have been sent to the Parish Council for consideration. There is no property registered formally as 'High Barn' to the south of the site, it is assumed the property referred is 5 Sea Lane.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Conservation Officer:
- No harm to significance or setting of nearby heritage assets.

Archaeology Advisor:
- Unlikely that the works associated with the proposal would affect archaeological deposits to the extent that refusal or the requirement of other mitigation measures would be justified.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Built-up Area Boundary.
Archaeological notification area.

Area of Character.
Adjacent to Locally Listed Building of Special Character.
Adjacent to Grade II Listed Building.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment
QEDM2	QE DM2 Light pollution
HERSP1	HER SP1 The Historic Environment
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM4	HER DM4 Areas of Character

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

MDS	Middleton-on-Sea Village Design Statement by Middleton PC
SPD13	Arun District Design Guide (SPD) January 2021
SPD9	Buildings or Structures of Character

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal complies with relevant Development Plan policies in that it would promote healthy and active lifestyles at an established recreational site without compromising the visual amenity or character of the area, or unduly impacting residential amenities of nearby properties.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,
(aza) a post examination draft neighbourhood development plan, so far as material to the application,
(b) any local finance considerations, so far as material to the application, and
(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE
The key Development Plan policies relevant to this proposal would be D SP1, D DM1, HER SP1, HER DM1, HER DM2, HER DM4, QE SP1 & QE DM2 of the Arun Local Plan (ALP).

Paragraphs 200, 201, 203 & 209 of the NPPF relating to the Historic Environment are also of relevance.

The Middleton-on-Sea Village Design Statement and Arun Design Guide are of relevance to this proposal.

CHARACTER AND DESIGN
Four of the existing tennis courts already feature floodlighting to facilitate evening use. The remaining two tennis courts are those to which the new lighting is proposed. The lighting columns are proposed to be 8m in height and are to be painted dark green, thus, of a matching design to those which are currently on site. Glimpses of the tennis courts are achievable through planting and when passing the Sports Club entrance from north to south along Sea Lane. The existing lighting posts are visible from the lane by virtue of their height, cresting the planting along Sea Lane.

The provision of the new lights would not alter the character of the site, nor result in any development that would materially harm the visual amenities of the site of locality. There would be some indirect light spill from the site, but the proposal is compliant with the relevant rural lighting zone requirements for minimising obtrusive light, and the indirect light spill from the site is suitably limited. There would be no significant harm to the visual amenities or rural character of the area as a result of indirect light spill.

The proposal is in accordance with policies D SP1 & D DM1 of the ALP.

NEIGHBOURING RESIDENTIAL AMENITY & LIGHT
The proposal has been supported by a light spill diagram and relevant supporting information pertaining to the illuminance levels and specifications of the proposed lighting units. Through the use of directional features and appropriate pitch, the floodlights have been designed and modelled to ensure that lighting intensity is suitable for a rural location, and that illuminance levels are reduced to acceptable limits by the time it reaches nearby residential dwellings. Environmental Health confirm the lighting units are acceptable in terms of their impacts on residential properties in the area. The light spill model does not consider the influence of mature vegetation to the site boundaries, which would also go some way to screening and further reducing impacts of light pollution on neighbouring properties.

A condition is to be attached to ensure compliance with the submitted light spill model, levels, and details and to not deviate from these details without prior agreement in writing from the Local Planning Authority.

CONDITIONS
The Parish Council requested a number of conditions. Most of these are reasonable in principle, either as they are, reworded, or replaced with an alternative wording to the same ends. However some do not

meet the required tests for conditions. These tests require a condition to be necessary, relevant to planning, relevant to the development proposed, enforceable, precise, and reasonable in all other aspects for it to be a legally compliant planning condition.

The condition requiring trees or plants along the western boundary to be replaced with others of similar size and species should they be removed or fail within 5 years of the development, is not felt reasonable. This has been requested to ensure Sea Lane maintains its rural and unlit character in line with the Area of Character SPD. This is appreciated, however, given the very minor scale of the development, the proposal is not likely to have any significant impact of the trees or planting to the western boundary. Whilst the mature planting to the western boundary will help screen light spill along Sea Lane and better preserve the rurality of the lane, in the absence of any significant impacts to the trees/planting to the western boundary, the proposal would not cause the loss of any trees or planting to the western boundary. For such a minor development, a requirement to replace any trees or planting along the western boundary with similar size and species planting is very restrictive and onerous. For the aforementioned reasons, this condition is not felt reasonable.

The condition requiring that no proposed lighting fitment be installed or operated where the source of the light is directly visible from the highway is also not reasonable. This condition has not been requested in the interests of preserving rural heritage/character. The lighting posts are to be the same as those currently on site which already extend above most of the planting along the western boundary. It is certain that there will be positions along the highway at which the lighting units will be visible, in a similar manner to those existing, but the lighting is designed to be directional and focus primarily on lighting the courts as required. The proposal is for lighting units which are adjacent the highway and atop 8m posts, to condition that bulbs/LEDs would not be directly visible from the highway would not likely be feasible, as they will be visible by virtue of their height and proximity. Provided the lighting remains suitably directional, as proposed, and are of the same/comparable design to the existing lighting, the visibility of these lighting units, and the extent to which they would indirectly illuminate the road, would not have any significantly different impacts over the existing lighting units. Neither Environmental Health or the Conservation Officer raise concerns on these grounds, and it was concluded that the proposal would not harm the Area of Character.

The proposal is in accordance with policies D DM1, QE SP1 & QE DM2 of the ALP.

HERITAGE
Paragraphs 200, 201, 203, 205 & 209 of the NPPF are of relevance to this proposal as the site is adjacent to a Locally Listed Building, and it is in the Middleton-on-Sea Estate Area of Character. Both of which are non-designated heritage assets. There is a Grade II Listed Building to the north of the site 'The Manor House'.

Paragraph 200 requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

The Manor House dates to the early 19th Century and is of architectural and historical significance. The immediate setting of the Listed Building consists of its curtilage which is contained by attractive flint walling. Further, there are a number of mature trees to the north and west boundaries, and younger trees to the south and east. These obscure views of both the Listed Building and its grounds form the wider area. The wider setting of the Listed Building includes the village centre, the sports club and Sea Lane, which contains a mixture of retail and residential uses. The surrounding buildings form a vibrant and characterful village centre of the development.

5 Sea Lane is a Locally Listed Building identified by the Local Planning Authority. It is a detached two storey house which has been designed in a mock Tudor style and was designated as it forms part of a group that are extremely good examples of traditional/established style which also contribute to the local townscape with some historical connection, and remain largely intact and not adversely affected by later extensions or alterations.

The Middleton-on-Sea Estate Area of Character derives its significance largely from the low density, spacious, planned concept of Captain Henry Rowlands Starkey Coldicott (1886 - 1980). The village was purposefully designed and offered all the necessary facilities for the village to flourish. The site is one of the main, and most significant and important facilities of the village, promoting a healthy community.

The locally listed building to the south, 5 Sea Lane, is closer than The Manor House but is predominantly experienced onsite and to some extent, from Sea Lane. The proposal site is well screened from Sea Lane due to the existing mature hedging, fencing, and some trees along the western boundary. They do not appear to be notably visible when travelling south along the lane towards 5 Sea Lane. There is existing lighting next to the site which crests the top of the mature planting along the boundary to Sea Lane, and this would simply increase the number of lights present. The addition of this lighting would not prejudice the significance of 5 Sea Lane or its setting.

Owing to the nature and scale of development, the separation distance and presence of existing intervening floodlighting, mature vegetation, and structures, the proposal does not impact the significance, nor the setting of the The Manor House.

The site, and Sea Lane are in the Area of Character. Glimpses of the tennis courts are achievable through planting and when passing the Sports Club entrance from north to south along Sea Lane. As a result, they inform part of the setting of Sea Lane and the Area of Character. The visual prominence of the courts would remain unchanged. The additional lighting units would however, be visible, cresting the planting along the west site boundary, but would be read alongside those serving the existing tennis courts, and would not be any more visually intrusive. Additional light spill from the proposed lighting is notable, but it is clear relevant and necessary measures have been taken to ensure lighting is suitably directional and compliant with the relevant lighting zone, rural. The planting along the boundary to Sea Lane, would help screen any light spill, above the requirement of relevant standards. Some light spill in this location is to be expected given the use of the site and the presence of existing lighting units. The additional light spill is within acceptable parameters for such a rural locality, and would not unduly prejudice the significance of the Area of Character, particularly given the existing site context.

The proposal is in accordance with policies HER SP1, HER DM1 & HER DM2 of the ALP and relevant paragraphs of the NPPF.

SUMMARY
The development is in accordance with relevant Development Plan policies and as such, it is recommended for approval subject to the following conditions and informatives.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of

the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location & Site Plan 373/01.
- Tennis Court Lighting 373/02 A.
- Images of proposed lighting posts (Accepted: 10/10/24).
- Lighting details, Produced by Kingfisher Lighting, Rev C (Dated: 20/09/24).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1 & QE SP1.

3 The lighting units hereby approved shall not be be operated at any time after 22:00 hours on any day unless otherwise agreed in writing by the Local Planning Authority. The floodlighting units hereby approved shall not be operated other than at such times that the courts they serve are in use.

Reason: In order to preserve the residential amenities of nearby residential dwellings and the character of the area in accordance with policies D DM1, QE SP1 & QE DM1 of the Arun Local Plan.

4 The floodlighting columns and units hereby approved shall match in colour to the existing floodlighting columns and units on site, and shall not be painted any other colour unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a cohesive appearance throughout the development and maintain the same in perpetuity in accordance with policy D DM1 of the Arun Local Plan.

5 The floodlights hereby approved shall be installed in accordance with, and conformity to, the

lighting spill model and details (Lighting details, Produced by Kingfisher Lighting, Rev C, Dated: 20/09/24) hereby approved, and shall remain as such in perpetuity. Should any of the floodlighting units result in the exceedance of the lighting spill model or levels hereby approved, by virtue of fault or otherwise, the lighting unit(s) in question shall cease operation until such a time as the unit(s) is/are brought back into accordance with the lighting spill model and details hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the floodlighting units hereby approved do not result in undue detriment to the residential amenities of neighbouring properties, undue adverse obtrusive light implications on the local environment or character of the area in accordance with policies D SP1, D DM1, QE SP1 & QE DM2 of the Arun Local Plan.

6 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission is de-minimis as the development does not impact an onsite priority habitat and the development impacts less than 25 square metres of onsite habitat that has a biodiversity value grater than zero and less than then 5 metres in length of onsite linear habitat.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

7 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.