

## Planning Committee – 25 February 2009

### Report of the Head of Legal and Democratic Services

#### Enforcement Item

#### Taunton Vale Hockey Club, Staplegrove, Taunton

#### Background

When Taunton Vale Hockey Club was first built about eight years ago a condition was imposed with the intention of stopping lights from the hockey pitch shining into adjacent residential properties. The wording of the condition was however somewhat ambiguous and it was considered that as the lights had been tested and approved by the Council, no action could be taken when local residents complained that lights were shining direct into their properties.

However, following a change in case law and the receipt of Counsel's advice, it was considered that the Council could seek to enforce the condition despite having approved the initial lighting scheme. Attempts to resolve the problem by negotiation continued over a period of time with various discussions and further advice being sought from lighting engineers. The fundamental problem seemed to be that the Club considered it was not feasible to alter the angle of the lights to prevent the glare of light into adjacent properties, which the Council considered would solve the problem.

During the course of these negotiations it became apparent that the Club were wishing to expand and it was considered that the imposition of a condition on the new permission, but relating to the existing lights, would enable the Council to impose an unambiguous condition and afford the Club the opportunity to raise the necessary monies to fund the alterations to the lights as part of an overall funding package.

Members will recall a further permission was granted in 2007 (34/2007/057) for a new sports hall and further flood lit pitches. A condition was imposed requiring the existing lights, which were causing the problem, to be shielded.

#### The current position

The new building was erected and although works were undertaken to alter the angle of the existing lights, shields were not fitted as required by the

condition on the later permission. Local residents complained that the condition had not been complied with and that the problem of lights shining in their properties continued. The shields had not been fitted by early October 2008 even though the new facilities were in use and therefore a Breach of Condition Notice was served requiring shields to be fitted by late November.

A visit was made by two planning officers and the Council's solicitor in December 2008 when the officers view was that the lights no longer shone directly into the neighbouring properties and that it might be possible to adequately protect the amenity of those properties without the need to for the shields required by the condition.

The Club were advised that they were in breach of the condition and that the Council could take action for failure to comply with the Breach of Condition Notice. They were also advised that an application could be made to vary the condition to provide a scheme of lighting with lower technical requirements which would be considered by the Planning Committee. The Club also volunteered to alter car parking lights which were another source of complaint.

The residents continue to complain about the light intrusion and the Club has not submitted an application to vary the condition. Whilst the Club may be able to protect the level of amenity of the neighbours by providing a different scheme of lighting, the neighbours are entitled to have such proposals tested through the planning process so that full consultation takes place and Members of the Committee are able to make that judgment. Alternatively, the Club ought to comply with its existing condition.

## RECOMMENDATION

It is therefore **RECOMMENDED** that the Solicitor to the Council be authorised to institute proceedings against the Taunton Vale Hockey Club in the Magistrates Court for failure to comply with the Breach of Condition Notice served on the 10 October 2008, subject to being satisfied as to the evidence.

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