

Planning Committee

15 August 2019

**Reference:
DPP3/19/00046**

**Area Team:
Development
Management Team**

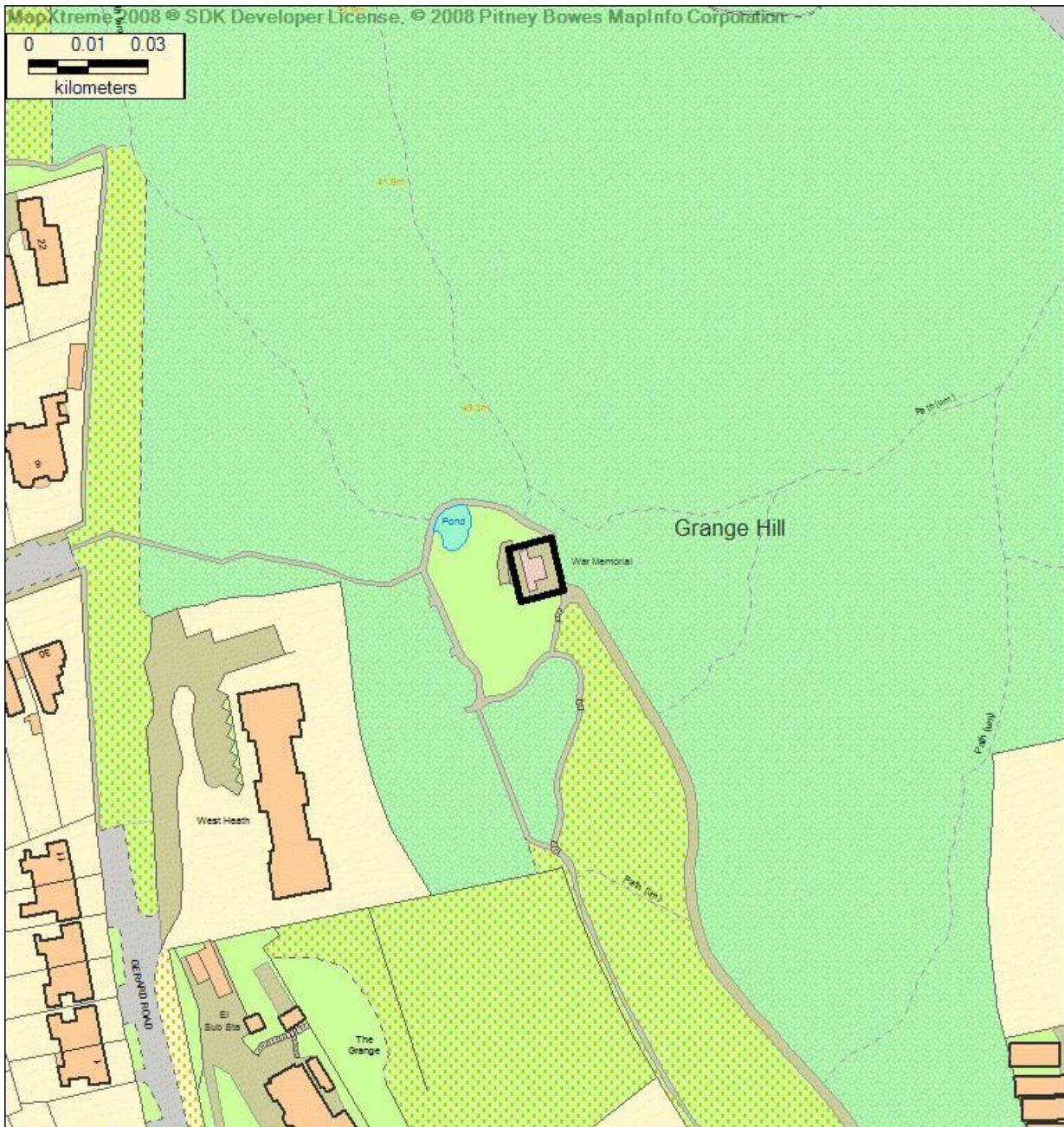
**Case Officer:
Mr B Pratley**

**Ward:
West Kirby and
Thurstaston**

Location: West Kirby & Hoylake War Memorial, Footpath Over Grange Hill By War Memorial To Lang Lane, West Kirby, CH48 4ET
Proposal: Enhanced lighting scheme and installation of web-camera and CCTV.
Applicant: Wirral Council
Agent : Wirral Council

Qualifying Petition: Yes, Number of Signatures: 95

Site Plan:



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Development Plan designation:

Site of Biological Importance
Urban Greenspace

Planning History:

Location: West Kirby & Hoylake War Memorial, Footpath Over Grange Hill By War Memorial To Lang Lane, West Kirby, CH48 4ET
Application Type: Listed Building Consent
Proposal: Application for listed building consent for enhanced lighting scheme and installation of web-camera and CCTV.
Application No: LBC/19/00047
Decision Date:
Decision Type: Pending Determination

Summary Of Representations and Consultations Received:**1.0 WARD MEMBER COMMENTS**

1.1 No comments received.

2.0 SUMMARY OF REPRESENTATIONS**REPRESENTATIONS**

2.1 Having regard to the Council Guidance on Publicity for Applications 12 notifications were sent to adjoining properties. A site notice was also displayed.

At the time of writing this report 24 objections, and a petition containing 95 signatures, have been received, listing the following grounds:

- The lighting will have a detrimental impact on wildlife.
- Radiation from LED lights is harmful to humans.
- Wireless radiation from the web camera will be harmful to humans and wildlife.
- The lighting will waste money and energy.
- The Merseyside and West Lancashire Bat Group (MWLBG) consider that insufficient information has been submitted to determine the impact on bats.
- The CCTV and webcam will harm views of the monument.
- The proposed lighting could attract criminal and anti-social behaviour.
- The Council's Ecological Advisors do not have the same level of expertise as members of the MWLBG.
- Lighting would prevent enjoyment of the night sky.
- The CCTV will not prevent crime or antisocial behaviour.
- The webcam could be used to spy on people.
- Images of children visiting the site could be viewed around the world.

3 separate objections were also received against the application for listed building consent, but based on the content of these objections it is apparent they relate to this planning application. In addition to those points raised above, the following issues were raised:

- Infrared CCTV and web cameras could be employed without lighting.

At the time of writing this report 3 letters/messages of support have been received, listing the following grounds:

- Residents of Red Rocks Nursing Home are supportive of this application and will enable them to see the war memorial on days such as Remembrance Sunday.
- The proposal will protect the memorial from vandalism and anti-social behaviour.

The Wirral and Cheshire Badger Group raised a concern about the impact of lighting on badgers. Following confirmation from the applicant that the lighting would be switched off at

11pm they have indicated that they no longer have an objection subject to a condition restricting hours of work.

CONSULTATIONS

2.2 **MEAS** - No objection subject to the imposition of conditions.

Natural England - No objection.

Wirral Wildlife - object to any lighting in bat activity season April - October as lighting could affect the feeding behaviour of bats and their invertebrate prey. However these restrictions could be lifted from November to March when bats are in hibernation.

It 3.1 Reason for referral to Planning Committee

3.1.1 This application is referred to Planning Committee following the receipt of 24 individual objections and a petition containing 95 signatures. This application was deferred at the Planning Committee of 30 May 2019 in order for more consideration to be given to the potential impact of the lighting on bats.

3.2 Site and Surroundings

3.2.1 The site comprises a Grade II* listed war memorial located at the top of Grange Hill. The memorial comprises a plinth, surmounted by a column with two figures facing broadly east and west. The site and surrounding area are defined as a Site of Biological Importance, an area of Urban Greenspace and a Site of Local Importance for Earth Science.

3.3 Proposed Development

3.3.1 This application seeks permission for the installation of lighting for the memorial and a web camera and CCTV.

3.4 Development Plan

3.4.1 Policy CH1 - Development Affecting Listed Buildings and Structures

This policy requires that proposals are of a nature and scale appropriate to retaining the character and design of the building or structure and its setting. That adequate provision is made for the preservation of the special architectural or historical features of the building or structure.

3.4.2 Policy GR1 - The Protection of Urban Greenspace

On land designated as Urban Greenspace, facilities for visitors, sport or play will be permitted where it can be demonstrated that the proposals would not:

(i) prejudice the continued use of the site for open air recreation; or

(ii) prejudice the visual amenity, landscape character or nature conservation value of the site.

Development for other purposes on land designated as Urban Greenspace, other than for the re-use of existing buildings, will not be permitted unless alternative provision of equivalent community benefit is made available.

3.4.3 Policy NC5 - The Protection of Sites of Local Importance for Nature Conservation Policy

Outside areas protected under Policy NC1 and Policy NC3 the Local Planning Authority will protect habitats of special local importance for nature conservation where they represent scarce, rare or threatened habitat, good examples of habitats typical to Wirral, diverse or rich habitats which actively support a wide range of important species, or areas known to provide for the shelter, breeding or foraging of legally protected species.

In evaluating proposals which may affect such habitats the Local Planning Authority will in particular consider:

(i) the nature, layout, and density of development proposed;

- (ii) the impact on the long-term ecological viability of the habitat affected;
- (iii) the appropriateness of measures taken to minimise damage to the habitat and disturbance to wildlife; and
- (iv) the appropriateness of provision for the future maintenance of the site.

Development affecting such habitats will only be permitted where the Local Planning Authority is satisfied that the continued ecological viability of the habitat or wildlife interest of the site can be adequately safeguarded by means of appropriate conditions and/ or legal agreements.

Appropriate conditions will include, where necessary, the requirement to provide an adequate "buffer zone" of a scale and nature appropriate to the interest to be protected and the retention of linkages to other wildlife sites within the surrounding area.

3.4.4 Policy NC7 – Species Protection

Development which would have an adverse effect on wildlife species protected by law will not be permitted unless the Local Planning Authority is satisfied that the protection of the species can be secured through the use of planning conditions and/or planning obligations.

3.4.5 Policy NC10 - The Protection of Sites of Importance for Earth Science

The Local Planning Authority will safeguard sites of local importance for earth science not protected under other statutory designations where they represent significant exposures of Wirral's underlying geology, good examples of geological formations or geomorphological processes, and especially where they possess special value for education.

The Local Planning Authority will only permit proposals affecting sites of local importance for earth science where:

- (i) the nature, scale, density and design of the proposal is compatible with retaining the earth science interest of the site;
- (ii) the proposal provides an opportunity to enhance the earth science interest of the site; and
- (iii) the proposal is compatible with public access to the site for educational purposes.

Proposals which would damage or obscure a site of local importance for earth science or which would preclude continued public access to such a site will be refused.

3.5 Other Material Planning Considerations

3.5.1 The NPPF states that Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

3.5.2 The NPPF states that planning decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

3.5.3 Government Planning Practice Guidance, relating to light pollution, states that some proposals for new development, but not all, may have implications for light pollution. The following questions will help to identify when the possibility of light pollution might arise:

- Does a new development proposal, or a major change to an existing one, materially alter light levels outside the development and/or have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces?

- Does an existing lighting installation make the proposed location for a development unsuitable? For example, this might be because:

- the artificial light has a significant effect on the locality;

- users of the proposed development (eg a hospital) may be particularly sensitive to light intrusion from the existing light source.

- Does a proposal have a significant impact on a protected site or species eg located on, or adjacent to, a designated European site or where there are designated European protected species that may be affected?

- Is the development in or near a protected area of dark sky or an intrinsically dark landscape where it may be desirable to minimise new light sources?

- Are forms of artificial light with a potentially high impact on wildlife (eg white or ultraviolet light) being proposed close to sensitive wildlife receptors or areas, including where the light shines on water?

- Does the proposed development include smooth, reflective building materials, including large horizontal expanses of glass, particularly near water bodies (because it may change natural light, creating polarised light pollution that can affect wildlife behaviour)?

If the answer to any of the above questions is 'yes', local planning authorities and applicants should think about:

- where the light shines;

- when the light shines;

- how much light shines; and

- possible ecological impact.

3.6 Assessment

3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Ecology; and

- Amenity

3.7 Principle of Development:

3.7.1 In principle the enhancement of a listed structure is acceptable, but this is subject to assessment of the impact on the designations noted in paragraph 3.2.1.

3.8 Design:

3.8.1 The impact of the proposal on the character, appearance and physical fabric of the listed monument is discussed in more detail in the Committee Report accompanying the application for listed building consent.

3.8.2 With regard to the broader visual impact of the proposal, including on the setting of the listed structure, the works consist primarily of the installation of underground ducting and boxes and as such will not have a visual impact. The proposed webcam column will have the appearance of a standard streetlight column, with a height of 3.5m. As part of this proposal the applicant has confirmed that an existing lighting column, to the east of the monument, will be removed. Subject to this, the visual impact of the new column on the setting of the listed structure and the wider area would be largely neutral. It is recommended that a condition is attached to this permission requiring the removal of the existing column within 3 months of the installation of the new column.

3.8.3 The applicant has confirmed that, at present, the war memorial is illuminated 24 hours a day for the few weeks running up to Remembrance Day. This is by way of a floodlight fixed temporarily to a pole. The proposed lighting has been designed by lighting engineers to illuminate the monument in what they consider to be the most visually satisfying manner, with all of the column and the majority of the figures illuminated. In purely design terms, the illumination is considered to enhance the appearance of the monument.

3.9 Highways:

3.9.1 There are no Highway Implications relating to this proposal.

3.10 Ecology:

3.10.1 MEAS, the Council's Ecologist, has confirmed that, subject to the imposition of conditions, the proposal will not have a significant impact on surrounding habitats and species, including bats, birds and the common lizard. It is recommended that these conditions, including the submission of details of the lighting scheme to prevent excessive glare and lightspill (condition 3), are attached to the permission.

3.10.2 A number of objectors have raised concern about the type of lighting to be used, that is to say LED (Light Emitting Diode) lighting, and its potential impact on wildlife. Concerns have also been raised about the impact of the use of wireless technology on ecology. MEAS have confirmed that there is no evidence to prove that either technology has a detrimental impact on wildlife and therefore advise that refusing the application for either reason would not be appropriate. Officers concur with this advice.

3.11 Amenity:

3.11.1 The closest dwellings are over 55 metres from the memorial. Therefore, subject to the condition preventing lightspill and glare, the proposal should not have a detrimental impact on residential amenity.

3.11.2 With regard to the more general impact of the lighting on visual amenity, the UDP does not have policies relating specifically to light pollution. However, the Governments Planning Practice Guidance (PPG) confirms that a number of factors should be considered when considering whether a development proposal might have implications for light pollution. The guidance poses a number of questions (see paragraph 3.5.3 above). In this case, the answer to a number of the questions is yes. The guidance then goes on to suggest that if any answers to these questions is yes, local planning authorities and applicants should think about where and when the light shines, how much light shines and possible ecological impact.

- 3.11.3 Possible ecological impacts are addressed in section 3.10 above. With regard to where the light shines, the information submitted by the applicant confirms that this will be on the memorial. Specifics of this, and the amount of light, will be secured through details submitted to discharge condition 3. Subject to the imposition of this condition it is considered that the requirements of the PPG have been met.
- 3.11.4 A number of objectors have stated that the amenity of visitors to the hill will be harmed by the presence of the web camera, and the fact that images will be viewable to persons not physically present. Whilst it is acknowledged that the column supporting the web camera constitutes development, the actual use of a web camera is not considered to constitute development. Ordinarily use of a web camera would not require planning permission, and the installation of what is likely to be a very small object would be considered to be de minimis, that is to say too small to be a consideration in the planning system. Furthermore, as a public space, any users of the area should not expect to be afforded privacy. Nonetheless, the applicant has been asked to confirm who would have access to the images from the web-camera. At the time of writing no response has been received. Should a response be received an update will be provided at the Planning Committee meeting.
- 3.12 Human Health:
- 3.12.1 A number of objections have been raised about the impact of LED lighting and wireless radiation (from the wireless connection to the web-camera) on human health. With regard to LED lighting the Institute of Lighting Professionals Guidance Note 5/17 - Using LEDs, notes that, "concerns chiefly relate to the blue light content of a light source and its potential to affect human health, flora and fauna. These concerns are not new but have come to the fore as LEDs are essentially a blue light source with varying coatings applied to produce white light". The document concludes by recommending that lighting schemes should only ever be managed by competent lighting professionals. This is a requirement of condition 3.
- 3.12.2 With regard to wireless radiation, government guidance on this matter (Wi-fi radio waves and health - 1 November 2013) states that, "There is no consistent evidence to date that exposure to radio signals from wi-fi and WLANs adversely affects the health of the general population. The signals are very low power, typically 0.1 watt (100 milliwatts) in both the computer and the router (access point), and the results so far show exposures are well within the internationally-accepted guidelines from the International Commission on Non-Ionizing Radiation Protection (ICNIRP)". There is not considered to be any justification for refusing this application on the basis of the use of a wi-fi web camera.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed development is not considered to have a detrimental impact on the setting of the listed war memorial, amenity or ecology. Government advice is that the technologies used are not harmful to human health. The proposal is therefore considered to comply with Policies CH1, GR1, NC5 and NC10 of the Wirral UDP and the provisions of the NPPF.

Recommended Approve
Decision:

Recommended Conditions and Reasons:

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

Reason: To comply with the provisions of Section 91 of the Town and Country Planning

Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11 January 2019 and listed as follows: B02893/E01 Rev C and in accordance with the approved plans received by the local planning authority on 26 March 2019 and listed as follows: B02893.05.

Reason: For the avoidance of doubt and to define the permission.

3. Prior to the commencement of development details of the proposed lighting scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The information submitted shall include a technical report prepared by a qualified competent person (e.g. Lighting Engineer) setting out the type of lights, performance, colour of lighting, the light levels to be achieved over the intended area, at the site boundaries and up to 50m outside of the boundary of the site, superimposed on a map of the site and its surrounding area. The lighting shall thereafter be installed and operated in accordance with the approved details under the supervision of a qualified competent person.

Reason: in the interests of amenity, to minimise any impact on ecology and to comply with Policies NC5 and NC7 of the Wirral UDP and the provisions of the NPPF.

4. The lighting hereby approved shall not be used at any time outside the calendar month of November, and during that month shall not be used between the hours of 11pm and 9am.

Reason: in the interests of amenity, to minimise any impact on ecology and to comply with Policies NC5 and NC7 of the Wirral UDP and the provisions of the NPPF.

5. Prior to the commencement of development the following measures shall be put in place:

- A toolbox talk regarding the presence of common lizard in the area and the legislation protecting them;
- Waste materials not to be stored in a manner that provides resting or hibernating opportunities for animals;
- All excavations shall be covered at night to prevent access by common lizard as well as terrestrial mammals and common amphibians; if this is not possible then a means of escape should be provided to ensure that no animals become trapped. This could include backfilling, covering with board, or fitting with a means of escape such as plank leading out of the excavation with an angle of no more than 45 degrees;
- Appropriate storage of materials so that they cannot be accessed by any animals; and
- Protective fencing erected around the construction area suitable for exclusion of common lizard.

Reason: in the interests of ecology and to comply with Policy NC7 of the Wirral UDP.

6. The construction work hereby approved shall be undertaken only between the hours of 8am and 6pm.

Reason: in the interests of the protection of badgers and to comply with Policy NC7 of the Wirral UDP and the provisions of the NPPF.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no electronic equipment other than the approved web camera shall be attached to the pole hereby approved.

Reason: as the uncontrolled addition of further electronic equipment could have a detrimental impact on the character and appearance of the site and the setting of the listed structure, and to comply with Policies CH1 and GR1 of the Wirral UDP.

Further Notes for Committee:

1. When discharging condition 3 above, the applicant should refer to the 'New Guidance on bats and lighting' page of the Bat Conservation Trust website:
<https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>.

Last Comments By: 18/03/2019

Expiry Date: 22/08/2019