



Appeal Decision

Site visit made on 16 December 2014

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 19 January 2015

Appeal Ref: APP/J1535/A/14/2227003

T B Lawn Tennis Club, Sidney Road, Theydon Bois, Epping CM16 7DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Breedon (Theydon Bois lawn Tennis Club) against the decision of Epping Forest District Council.
 - The application Ref EPF/2610/13, dated 7 December 2013, was refused by notice dated 9 April 2014.
 - The development proposed is the installation of lights to Court 3 incorporating a total of 4 Columns and 4 Lamps.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of lights to Court 3 Incorporating total of 4 Columns and 4 Lamps at T B Lawn Tennis Club, Sidney Road, Theydon Bois, Epping CM16 7DT in accordance with the terms of the application, Ref EPF/2610/13, dated 7 December 2013, subject to the following conditions on the attached schedule.

Main Issues

2. The site is within the Green Belt and so the main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan; and
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, having regard to outlook, light intrusion, noise and disturbance;
 - The effect of the proposal on car parking and highway safety.

Reasons

Inappropriate development

3. Paragraph 89 of National Planning Policy Framework (the Framework) establishes that certain forms of development are not inappropriate in the Green Belt. This includes the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries provided they preserve the

openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.

4. Policy GB2A of the Epping Forest District Local Plan Alterations (LPALT) 2006 states planning permission will not be granted for new buildings or the change of use or extension of existing buildings in the Green Belt unless it is appropriate in that it is for specific type of development. One type of development is for the purposes of outdoor participatory sport and recreation.
5. The proposal would result in the erection of four columns each with a lamp in the four corners of an existing tennis court. This would enable the use of the courts for three nights of a week till 2130 hours. Given that the columns and lamps serve an existing facility and would be small in physical extent, there would be no impact on the openness of the Green Belt or conflict with any of the purposes of including land within the Green Belt. Furthermore both the Council and the appellant do not dispute that the development falls within the definition of acceptable development in the Green Belt under paragraph 89 of the Framework and LPALT Policy GB2A.
6. For these reasons, the proposal would not be inappropriate development as set out in the Framework and development plan.

Character and appearance

7. The tennis club has six hard surfaced tennis courts along with a clubhouse and a car parking area at the end of Sidney Road. The site is partially elevated above the gardens of neighbouring properties in Coppice Row to the north. To the east of the tennis club, there is a cricket club and associated grounds. There is an absence of street lighting within the surrounding area.
8. The proposed columns, with attached lamps, would be 7m high and would be located within Court 3. Court 3 is sited centrally within the site behind the car park area and adjacent to the cricket club. Given the high fences surrounding the courts and scale of development surrounding the tennis club, the columns would not be incongruous within the locality.
9. With regard to the illumination of the lamps, there would be a down lit area created between the lamps and hard surface of the tennis court. The surrounding area is largely characterised by darkness at night because of the general absence of street lights. The Theydon Bois Village Design Statement (VDS) refers to a dark skies policy with a high proportion of participants in a survey agreeing with such a policy. The VDS has not gone through the formal consultation processes of a Development Plan Document but I have attached some weight to the policy given its specific relevance to lighting.
10. The policy indicates that all forms of exterior lighting can, if badly angled cause two broad types of problem, namely light pollution and light nuisance. Reference has been made to the policy resisting external bright lights/high level lighting but this is under guidance notes and does not prohibit additional lighting altogether. Indeed, other policy guidance notes suggest appropriately designed lighting can be acceptable where it encourages lighting that is correctly adjusted so that light overspill onto neighbouring property is prevented and light emission above the horizontal is discouraged. On this basis, the policy is not intended to resist all new lighting within the village but rather to minimise their impact and resist inappropriate designed lighting.

11. The appellant has submitted lighting details which indicate that the lamp fitting would be designed with an asymmetric reflector and the lamps would have low aiming angles above the horizontal plane. An ISO surface illuminance (lux) contour overview plan shows that light overspill would reduce significantly in extent beyond the court and its immediate confines. The appellant has also indicated that the court would also only be used for three nights of the week up to 9.30pm. On this basis, the proposal would not result in excessive sky glow, light glare and horizontal light spillage conflicting with the dark skies policy contained within the VDS.
12. Mention has been made of light bouncing off the ground in all directions and low cloud, along with moisture in spring and autumn, increasing the visual impact of light pollution. However, for the reasons indicated, light spillage and pollution would not be significant given the design of the lighting scheme. In this regard, assurance is provided by the supporting specification for the lighting scheme produced by Ayrlect Associates and Luminance Pro Lighting Systems Ltd which has been devised to address key issues of sky glow, glare and horizontal light spillage.
13. The lamps and their down lit illumination would be visible from surrounding public vantage points in Sidney Road and Coppice Row. Nevertheless, the visual impact would be limited by the siting of Court 3 behind other non-illuminated courts and the car park area from Sidney Road. In relation to the roadside footway along Coppice Row, views would also be distant despite the raised ground nature of the tennis courts. For similar reasons, views of the illuminated court from other public roads and areas would not be overly intrusive.
14. For these reasons, the development would not be harmful to the character and appearance of the surrounding area. Accordingly, the proposal would comply with Policies CP2 and GB7A of LPALT and DBE2 of the Epping Forest Local Plan (LP) which collectively and amongst other matters, require the safeguarding and enhancing of setting, character and townscape of the urban environment and the prevention of conspicuous development within the Green Belt.

Living conditions

15. At the end of Sidney Road, there are two properties either side of a turning area which are adjacent to the tennis club site. There is a first floor bedroom window within the flank of property known as Bushwood and a greater number of windows on the flank of a property known as Wedgewood. Representations have highlighted that some of the windows on these dwellings serve bedrooms.
16. During times of operation, the illuminated lamps and down lit areas would be noticeable from the windows of these properties. However, the degree of visual intrusion would be limited by the distance of the lamps and down lit areas from the windows of these properties and the limited operating times of the lamps. In the case of Bushwood, the property would be separated by the existing car parking area and clubhouse whilst Wedgewood would be separated by other tennis courts. The ISO surface illuminance (lux) contour overview plan further shows light overspill only affecting Bushwood to a very limited degree.
17. There are further residential properties along Coppice Row which back onto the tennis club with living, kitchen and bedroom windows. The ground levels of the

dwelling and gardens of these properties are lower in height than the tennis club site. Nevertheless, the illuminated court number 3 would be some distance from the dwellings themselves because of the depth of their gardens and the existence of other non-illuminated tennis courts sited in between. Additionally, many of the properties are further separated by the cricket grounds. In the case of the gardens of these properties, the illuminated tennis court would still be separated by other non-illuminated tennis court areas and again in case of many properties, the cricket grounds. Even in winter, this degree of separation would be quite sufficient to reduce light glare and illumination when deciduous vegetation provides less screening cover.

18. Reference has been made to ugly shadows that the lighted columns would cast over the surrounding area. However, these areas would be some distance away from properties in neighbouring streets for the reasons previously stated. Noise and disturbance arising from the comings and goings of traffic as well as from players using the tennis court has been referred to. However, the additional traffic generation arising from this proposal for the increased use of one tennis court would be not significant. Noise and disturbance from the players on one tennis court would also be unlikely to be significant for similar reasons.
19. For these reasons, the development would not harm the living conditions of residents by reason of the loss of outlook, light intrusion, noise and disturbance. Accordingly, the proposal would comply with Policies CP2 and GB7A of the LPALT and DBE2 of the LP, which collectively and amongst other matters, indicate that planning permission will not be granted for development that has a detrimental effect on neighbouring properties in amenity terms.

Parking and highway safety

20. There is a private car park located off Sidney Road which serves the tennis club. There are no marked bays within it and there is a difference in opinion over its capacity ranging from 10 to 15 parking spaces.
21. Nevertheless, the effect of granting planning permission would be to extend hours of playing tennis on one court into the evening at times when other courts would be difficult to play on due to poor light. Therefore, the level of car parking required for members would be considerably less, when the lighting is on, than during the daytime when all the tennis courts are available for use. In this regard, the appellant indicates that Court 3, when illuminated, would serve at most 4 adults and at other times 10 juniors at any one time which would be a reasonable estimate of the level of use for one court. Consequently, the car park would be adequate to serve the needs of members making use of the lighted court even taking into account the lower capacity of 10 car parking spaces.
22. Residents have pointed to considerable problems with inconsiderate parking along Sidney Road. Some tennis club members park along this road especially when tournaments are held, to allow visiting players to park at the club car park. However, as has been pointed out, commuters park along this road and there is no evidence that the car parking issues are caused by the tennis club members. In any case, the car park is adequate in size to serve the nighttime use of one court for the reasons previously referred to.

23. For these reasons, the development would not result in unacceptable on-street car parking, reversing and manoeuvring of vehicles which would cause a significant highway safety risk. Accordingly, the proposal would comply with Policies ST4 and ST6 of the LPALT and DBE2 of the LP, which collectively and amongst other matters, require adequate car parking in accordance with relevant standards and for new development not to be detrimental to highway safety.

Other matters

24. The Loughton Astronomical Society meet at the Scout hut beyond the cricket ground to the east of the tennis club site. They have a children's section that meets early evenings on a Friday and their activities are sensitive to scattered light and pollution. However, the lighting would be designed to minimise light pollution and the tennis club are only requesting use of one illuminated court for three nights. Taking these considerations into account, the local astronomical society activities would not be disproportionately affected.

25. A previous proposal for lighting of 3 tennis courts at the site was dismissed in 2005 (APP/J1535/A/05/1172277) where the Inspector referred to the looming presence of the lighting against a dark sky. However, this previous proposal was far greater in terms of columns, lamps and average Lux light value. Other appeal decisions have been referred to at Lindow Lawn Tennis Club, Wilmslow, Cheshire (APP/R0660/A/13/2198344) and at Wychwood Golf Club, Lyneham, Chipping Norton, Oxfordshire (APP/D3125/A/12/2178746). However, these proposals similarly concern a greater number of floodlit courts as well as being in different surroundings and consequently, there are sufficient reasons to distinguish these previous appeal proposals from that considered here. In any case, every application or appeal must be determined on its individual planning merits.

26. Representations have been about Epping Forest Deer Park which has been indicated to be a Site of Special Scientific Interest and Special Area of Conservation to which European Habitat Directives apply. Reference has been made to bats and deer within these areas. However, there are no objections from any recognised ecological body. I am satisfied the proposal would be a good distance away from such areas and there would be no harm to the species referred to given the small scale nature of the proposal.

27. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. Another application was submitted at the same time as the current proposal for the erection of 8 columns in two courts. However each application and appeal must be considered on its individual merits and a generalised concern of this nature does not justify withholding permission in this case. Conflict with the Clean Neighbourhoods and Environment Act 2005 has been cited but this is a separate legal matter and has not formed part of my deliberations.

Conditions

28. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance (PPG); for clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.

29. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. Within this condition, reference has also been made to the lighting design of the proposal produced by the appellant's lighting engineers because this is an integral part of the scheme. In the interests of the character and appearance of the area and the living conditions of residents, conditions have been imposed regarding lighting levels and operating times. For the sake of precision, I have worded the condition to ensure lamps are switched off at appropriate times when it is generally dark.

Conclusion

30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Attached conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 214-PL-01 rev A; 214-PL-2 and the lighting design contained within the Luminance Pro Lighting Systems Ltd document titled "Theydon Bois Tennis Club Outdoor Tennis Lighting Design" dated 18 June 2013.
3. The lux levels of the lamps to be fitted to the 4 columns shall not exceed the value of 300.
4. The lamps hereby permitted shall only be used for three days per week (Monday to Sunday) and shall not be used between 2130 hours and 0800 hours.