

Appeal Decision

Site visit made on 8 November 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd December 2016

Appeal Ref: APP/M5450/W/16/3156257

West End Lawn Tennis Club (Pinner) Ltd, Cuckoo Hill Road, Pinner, Middlesex HA5 1AY

- 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 West End Lawn Tennis Club (Pinner) Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1468/16, dated 22 March 2016, was refused by notice dated 18 May 2016.
 - The development proposed is additional floodlighting to court Nos 4 and 5 (three new columns with four luminaires and four luminaires added to existing columns on court Nos 1 and 2).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the banner heading has been taken from the original planning application form. However, the appeal form provides a revised wording which includes reference to the proposed netting to the boundary fence. The description reflects that of the Council's decision notice. It is clear that the Council dealt with the proposal on that basis and so, therefore, shall I.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of 2 Northfield Avenue with particular regard to outlook and light pollution.
 - The effect of the proposal on biodiversity.

Reasons

Living Conditions

4. The appeal relates to a tennis club which includes 6 outdoor courts. The courts are located on the northern side of the club house and are adjacent to the predominately residential street of Northfield Avenue.
 5. The proposal seeks to erect three new lighting columns at the northern end of courts 4 and 5. Courts 4 and 5 are located adjacent to the detached dwelling of 2 Northfield Avenue. The proposal would also include new luminaires to
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- floodlight columns 1, 2 and 3 which are located on courts 1 and 2. They would provide additional lighting to courts 4 and 5.
6. Policy DM48 of the Harrow Development Management Policies Local Plan 2013 (DMPLP) states that proposals that would increase the quality of outdoor sport facilities will be supported where there would be no adverse impact on residential amenity. It goes on to state that proposals for floodlighting will be supported where it would not be detrimental to the amenity of neighbours.
 7. The appeal site has been subject to several planning applications and appeals in respect of proposals for floodlighting. Most recently, an appeal¹ for a scheme for the installation of 8 floodlighting columns to courts 4 and 5 was dismissed in 2009. On that occasion, the Inspector found that the proposed floodlighting would have an overbearing and adverse impact on the level of amenity enjoyed by the occupiers of 2 Northfield Avenue.
 8. I note that circumstances since the previous appeal have changed to an extent. Indeed, there are now floodlights located on courts 4, 5 and 6. However, these are located to the centre of the courts, away from the boundary with No 2. I also note that the previously dismissed columns ranged between 5m and 6m in height. Nevertheless, the proposed columns would not be markedly lower at around 4.5m in height. Moreover, they would be sited adjacent to the boundary at around 5m from the flank elevation of No 2. Proposed columns 17 and 18 would be in close proximity to windows in the front of No 2 at both ground and first floor, all of which have unobstructed views towards the shared boundary. Proposed column 16 would also be close to two first floor windows in No 2 which serve a bedroom.
 9. Furthermore, the shared boundary does not benefit from any significant vegetation and is, as a consequence, relatively open in character. I note that the proposal would include additional netting to the existing fence. Whilst this would help screen the columns, it would not necessarily obscure them completely and would in itself appear somewhat intrusive. The appellant indicates that a light grade of netting could be fitted with an obscuration rate of only 10%. Whilst this would reduce the visual impact of the netting, it has not been demonstrated that such netting would in turn effectively screen the proposed columns. As a result, the columns would be highly visible from habitable windows in No 2 and would, in my view, appear as obtrusive and overbearing features within the outlook of the property.
 10. In terms of the potential for light spill, it is indicated that the Institute of Light Professionals (ILP) maximum recommended vertical luminance is 5 Lux within settings such as this. The evidence provided by the appellant indicates that vertical luminance at No 2 would be below the maximum recommended vertical luminance for house windows. Indeed the Council's Lighting Engineer has noted that, whilst there would be a slight intensification of the proposed lighting from courts 4 and 5, it would not be of a harmful level.
 11. The Council's concerns in respect of light spill largely stem from whether or not the appellant's evidence does not include any cumulative effect or contribution from the entire installation. However, the evidence provided shows the lighting values for all existing and proposed columns and luminaires across the site. Moreover, the appellant has indicated that all existing and proposed luminaires

¹ APP/M5450/A/09/2105014/NWF

are “full cut-off” types with an upward light ration (ULOR) of 0%, which would result in no light emitted above horizontal level and no increase in sky glow. It is noted that ILP guidance recommends a maximum ULOR of 2.5%.

12. Representations by BRE on behalf of the occupiers of No 2 indicate that measurements taken from the bedroom windows of the property measure vertical luminance in the range of 1.8-2.4 Lux. In addition, it is indicated that the existing lighting, together with the proposed lighting, would be expected to give spill light higher than the 1.8-2.4 Lux measured. However, I have been provided with little substantive evidence to support this view and, in any case, such levels of light spill would potentially still be within the recommended ILP guidance. I note the concerns of the occupiers of No 2 regarding the levels of light spill to the rear garden which is indicated would be up to 100 Lux. However, I have no substantive evidence to support this view.
13. As a result, in the absence of any compelling evidence to the contrary, I have no reason to conclude that the level of light spill anticipated by the appellant’s assessment would not be representative of the actual levels emitted from the site upon completion of the proposal. To that end, I am satisfied that, on the evidence before me, the proposal would not result in harmful levels of light pollution for the occupiers of 2 Northfield Avenue.
14. Notwithstanding that, I conclude for the reasons above that the proposal would have a harmful effect on the living conditions of the occupiers of 2 Northfield Avenue, with particular regard to outlook. That is the prevailing consideration. The proposal would, consequently, conflict with Policies 7.4 and 7.6 of the London Plan² which state that development should create a high quality design response that does not cause unacceptable harm to the amenity of surrounding residential buildings. It would also conflict with Policy CS1.B of the Harrow Core Strategy 2012 (CS) which states that development should respond positively to local context. It would also conflict with Policy DM48 of the DMPLP and Policy DM1 of the DMPLP which requires proposals to have regard to the impact on neighbouring occupiers.

Protected Species

15. The appeal site is located within a predominately residential area characterised by large properties with mature gardens. The Council’s concerns in respect of protected species principally relate to the appellant’s Biodiversity Report submitted with the application. The report was dated 2013 and did not take into account the proposed new lighting columns and the additional luminaires proposed on existing columns. To that end, the Council considered that the appellant had failed to demonstrate that the proposed development would not have an adverse impact on protected species, in particular bats.
16. An updated Protected Species Assessment dated July 2016 has been submitted with this appeal. The assessment identifies the closest area of high quality foraging and commuting habitat for bats is the River Pinn, along with associated vegetation and allotments located around 150m south of the site.
17. The survey identified a small number of adjacent trees as potentially suitable for roosting bats. It ultimately concludes that the immediate surroundings contain moderate potential foraging grounds for bats, although the survey

² The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011, 2016

notes that The River Pinn is within commuting distance for bats from the appeal site and is likely to produce high quantities of insects for feeding bats.

18. Nevertheless, no signs or evidence of bat activity were observed and no bats were observed emerging from nearby trees. Nor were bat roosts discovered. Furthermore, the daylight tree inspection did not identify any significant potential roosting habitat on trees which may be affected by increased light spillage from the proposal. As a result, the risk of significant impact to protected species such as roosting bats, foraging and commuting bats or rare bat species is considered to be low, subject to mitigation that the floodlighting is switched off from 21.30 on an evening. I see no reason why such a matter could not be subject to a suitably worded condition.
19. In addition, there is no substantive evidence before me that any other protected species are present in the area that would likely be affected by the proposal. Indeed, the surveys undertaken by the appellant did not detect any evidence of protected or priority species in the area that would be affected.
20. I conclude, therefore, that the proposal would not have a harmful effect on biodiversity. In that regard, the proposal would not conflict with Policy DM20 of the DMPLP which states that proposals that would be detrimental to locally important biodiversity will be resisted. The proposal would also partially accord Policy DM48 of the DMPLP insofar as it states that proposals for floodlighting will be supported where it would not be harmful to biodiversity.

Other Matters

21. I note that the floodlighting would assist the club in providing facilities which support participation in sport and recreation, and that the club plays an active role in the community with around 300 members. Nevertheless, these factors would not, in my view, outweigh the harm that would arise to the living conditions of the occupiers of 2 Northfield Avenue.
22. I note the concerns of local residents regarding the effect of the proposal on the living conditions of the occupiers of other properties on Northfield Avenue and Cuckoo Hill Road. I also note concerns raised by residents with regard to highway safety. However, given my findings on the main issues above, those concerns do not lead me to any different overall conclusion.

Conclusion

23. Whilst I have found that the proposal would not have a harmful effect on protected species or on the living conditions of the occupiers of 2 Northfield Avenue in respect of light pollution, I have found that the proposal would have a harmful effect on the living conditions of the occupiers of 2 Northfield Avenue in respect of outlook. On this occasion, that is the prevailing consideration and outweighs the lack of harm in respect of other substantive matters. For the reasons given above and having considered all other relevant matters, I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR