



Appeal Decision

Site visit made on 16 December 2019

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/F5540/W/19/3237850

Will to Win, Chiswick House Grounds, Chiswick, London W4 2RP

- 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 Steve Riley, Will to Win Ltd, against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00176/E/P37, dated 31 January 2019, was refused by notice dated 28 March 2019.
 - The development proposed is described as proposal for erection of 12no, 5.6m high floodlight columns with 12no. floodlights to illuminate the 2no. existing tennis courts at Chiswick House Gardens.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 12no. 5.6m high floodlight columns with 12no. floodlights to illuminate the 2no. existing tennis courts at Chiswick House Gardens, London, W4 2RP, in accordance with the terms of the application, Ref 00176/E/P37, dated 31 January 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1.01 rev a, 2.01 rev a, 2.02 rev a, 2.03 rev a.
 - 3) The floodlights shall not be operational outside the hours of 07:00 - 21:00 Monday to Saturday and 08:00 - 17:00 Sunday.
 - 4) The floodlights shall not become operational until details of the lux levels, including any shielding to ensure no light spill of more than 10 lux to the closest neighbouring residential properties, and also in the interest of mitigation against harmful effects on protected species, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the lights become operational and shall be retained for the lifetime of the development.

Main Issues

2. The main issues are:

- The effect of the proposed floodlights on The Chiswick House Park and Gardens;
- The effect on the setting of Chiswick House listed building and character or appearance of the Chiswick House Conservation Area (CA); and
- The effect on the openness of the Metropolitan Open Land (MOL).

Reasons

Grade I Gardens

3. The appeal site is located within the periphery of Chiswick House Park and Gardens which is separated from the gardens by a high brick wall to the south east. Chiswick House is Grade I listed and is a fine example of an 18th Century Palladian Villa, and was once the domain of Lord Burlington. It is set in landscaped gardens of approximately 66 acres in size, Grade I on the Historic England Register of Parks and Gardens. The gardens have a secluded and tranquil feel with high hedgerow paths leading from the north west, that opens up to the vistas of the Villa.
4. The appeal site is substantially separated from the gardens by a high brick perimeter wall, and there is little inter-visibility between the two. The tennis courts, where the floodlighting is proposed to courts 4 and 7, are the closest courts to the gardens and at approximately 5.6m in height, the floodlights would exceed the height of the perimeter wall. The floodlight columns would be narrow in circumference with only the head of the lamp its most obvious part.
5. There is a strong buffer of landscaping within the gardens in front of this perimeter wall, consisting largely of mature trees that has grown to an excessive height. Whilst the floodlights would be seen from within the gardens, given the closeness of the landscaping against this perimeter wall, together with its density, the floodlights would be viewed against a backdrop of landscaping that would have the greater visual impact and would not harm the significance of its special character as a Registered Park and Garden.

Listed Building and Conservation Area

6. Chiswick House Park and Gardens are set within the Chiswick House CA, which includes development around the periphery of the park, and takes in the appeal site. The CA is a planned landscape garden of pleasure grounds, walled gardens and parkland, heavily influenced by the ideas and designs of the 18th Century landscape architect William Kent. The selection of yew, orange and cedar trees strategically planted to identify specific areas of the garden, with lawned gardens, informal and formal walks and alleyways that terminate at distinctive focal points of columns, classical statues and bridges, with the Palladian Villa the most prominent of the many listed buildings, forms part of the significance of the heritage asset.
7. I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the setting of Chiswick House. By reading its listing description, it seems to me that

- the special interest of this building derives from its age, form and appearance, and its designed landscaped setting.
8. The grounds in which the Villa is located contribute to its setting. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. The appeal site is considerably separated from this Villa, and its relationship is with the gardens that surrounds it. In that context, I consider that the appeal site contributes little, if anything, to the significance of the Villa or its setting, and there would be no harm in this regard.
 9. Views from out of the CA towards the appeal site are interrupted by the screening qualities of the landscape belt and the perimeter wall. Given the limited height and scale of the lights, and this strong buffer, they would not be clearly visible. Whilst the floodlights would be seen in views from the north west, and even from gaps between houses along Park Road, they would merge into the backdrop of the landscaping belt. Therefore, the character or the appearance of the CA would not be significantly harmed by the proposal.
 10. In this instance, the floodlights would cause a less than substantial harm to the significance of the CA. This needs to be weighed against the public benefits to be gained from the proposal. The tennis facility operates as a pay as you play facility with no membership required, and I am aware that there are a limited number of publicly accessible and affordable tennis courts in the area that offer play in the hours of darkness. This, taken together with the health benefits of providing increased sporting opportunities within the area, are factors that outweigh the limited amount of harm that I have identified to the character or the appearance of the CA.
 11. I also consider light spill from the lamps could be controlled to be limited not to extend beyond the immediate site, and illumination would only be for a short period of time when the lights are on. I consider the illumination would not harm the significance of the heritage assets.
 12. Taking account of the effect of the development on the heritage assets, the proposal accords with the aims and objectives of the Council's Local Plan 2015-2030, Policy CC4 Heritage, and the National Planning Policy Framework, *the Framework*, that seeks to conserve and enhance the historic environment.

Metropolitan Open Land

13. The appeal site lies within an area of MOL and the floodlights are proposed to extend the opportunities to play tennis at the site. I do not consider the floodlights to be inappropriate development by definition although this is caveated with the exception that the openness of the MOL is preserved.
14. Whilst I accept that the floodlights would have a visual presence, their height, number and scale is limited and therefore the proposal would cause no material harm to the openness of the MOL. To this end, the development would accord with Policy GB1 of the Local Plan 2015-2030, to protect MOL by ensuring any development is not inappropriate and meets the purposes of the MOL. It would also accord with the London Plan, specifically Policy 7.17 as it maintains the openness of the MOL. As the proposal would facilitate improved tennis opportunities, this would align with the Framework to enable and support healthy lifestyles through the provision of sports facilities.

Other Matters

15. I have had regard to the presence of bats within the area and other wildlife that may be affected by the proposed lighting. I note the Council is satisfied that appropriate mitigation can be imposed through shielding of the head lamps to prevent adverse effects on protected species, and I concur with this view.
16. Issues pertaining to light spill, noise and general disturbance to local residents is noted. Intrusive light spill can be avoided by use of shielding through condition. Noise levels from the sporting activity would inevitably occur later into the night than at present, however, the appellant agrees to the lights being operational until 21:00 at the latest. This is a reasonable cut off time when local residents would expect a level of quiet.
17. The lighting columns would be visible from the backs of a number of houses along Park Road, although they are by themselves slim in nature and are not a visually intrusive feature. Furthermore, given the site is a tennis club, this type of feature would not be uncommon, and in time would become assimilated into the grounds.
18. Concern has been raised by an objector that the development would interfere with rights under Article 1: The Peaceful Enjoyment of Property and Article 8: The Right to Respect for Private and Family Life and for the Home and Correspondence, of the Human Rights Act 1998 (HRA). However, these are qualified rights and Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the wellbeing of the country which has been held to include the protection of the environment and upholding planning policies. Furthermore Article 1 provides that no one shall be deprived of his possessions except, subject to conditions, in the public interest.
19. In this case I have found the development to be in accordance with planning policies. Furthermore, whilst I acknowledge that residents would experience a limited change to their surroundings, I have not identified harm that would adversely affect family life, and as such the impact of this would be outweighed by the wider public interest of the benefits of providing extended opportunities to access sporting facilities. Accordingly, the degree of interference that would be caused would be proportionate and would be insufficient to give rise to a violation of rights under Article 1 or Article 8.
20. Privacy has also been raised as an issue by a local resident, although I can find no reason to suggest that increased hours of play at the venue would have an adverse effect on privacy levels.
21. I am aware of an earlier appeal decision at the site for floodlights¹ to different tennis courts. However, I have determined this appeal on the circumstances at the time and the evidence before me and have reached my own conclusion on the matter.

¹ Appeal reference APP/F5540/A/12/2180466

Conditions

22. I have considered the suggested conditions taking account of the Planning Practice Guidance and Paragraph 55 of the Framework. In addition to the standard time limit condition, a condition relating to the approved plans is necessary to provide certainty. Details of light shielding is required to ensure light spillage is minimised to protect the natural habitats as well as living conditions of local residents, including a limit to the hours of operation of the lights until 21:00 Monday to Saturday and until 17:00 Sundays.

Conclusion

23. I conclude that the proposal would result in limited harm to the conservation area but that is justified in the circumstances explained above, and that the proposal is not inappropriate development within the MOL. Taking all other matters into account, the appeal should be allowed.

Alison Scott

INSPECTOR