
Appeal Decision

Site visit made on 22 July 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2020

Appeal Ref: APP/X2410/W/20/3249399

Gynsill Tennis Club, Gorse Hill, Anstey LE7 7AN

- 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 Gynsill Lawn Tennis Club against the decision of Charnwood Borough Council.
 - The application Ref P/18/0942/2, dated 2 May 2018, was refused by notice dated 28 October 2019.
 - The development proposed is described as the addition of lighting to courts 2 and 3. The courts are existing and are part of a group of three courts; court 1 already has lighting.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 175 Gynsill Close with specific regard to disturbance from light and noise.

Reasons

3. The appeal site concerns two of the three artificial grass tennis courts which are sited line abreast between the clubhouse Gynsill Close. The southern baseline to each of the three courts is in close proximity to the northern boundary of the rear garden to No 175 Gynsill Close. Courts 2 and 3 (subject of the lighting proposals) are closest to the dwelling. Court 2 is at right angles to the garden and court 3 the dwelling itself. The new lighting columns would include one all but on the shared boundary, illuminating the southern end of courts 2 and 3.
4. I have seen the appellant's assessment regarding light spillage and agree with the Council's conclusions in their report to committee that it would not be excessive in itself. When also taking into account the angles of the lights, the proposed height of their mount and the use of baffle plates. Above the existing situation of no lighting at this end of courts 1-3 however I feel it would. Particularly given just how close one of the columns would be to the side and rear elevation of No 175.
5. The column in question would be just off level with the rear elevation of the dwelling. There is a projecting glazed door and window at this point. There is

also a window in the side elevation of the dwelling which the evidence suggests serves a bedroom. The proximity of the closest column to these windows would result in light spillage. Of that there seems no doubt. Albeit it is the appellant's contention that it would be at an acceptable level. This is where I disagree. Particularly since there are no other sources of light currently at this end of the club's grounds. I have seen photographs of the existing lighting from both occupiers of No 175 and the appellant and whilst I appreciate that the ones taken on an otherwise dark evening can be misleading given how a camera lens is likely to adjust to a source of light, they nonetheless shown how flood lights even facing away from an adjoining area of land can still illuminate it noticeably. These existing lights are quite far down the garden to No 175 and at a point where they are less likely to impinge on the dwelling. The column I have identified above would be much closer to the dwelling and affect the rooms which the windows I have mentioned serve.

6. The appellant has explained that the usage of courts 1-3 would be minimal and unlikely to go on too late into the evening on the rare occasions when lighting is required. As accurate an assumption as this may be, an assumption it still is and it could not be reasonably controlled. The majority of lit use would most likely be autumn and into early winter since weather conditions in deep winter would not be appropriate for outdoor sports such as tennis. Despite this, the appellant has also explained that when considering coaching for adults and children of an evening in the winter months, there is a higher demand for lit courts for social and competitive play, hence the appeal scheme.
7. Play during the late spring and summer months, without lights, could reasonably continue until at least 21:00 under natural light at the lightest times of the year. That said, and even with a limited timer on the new lights, they could still theoretically be in constant use up to relatively late at night (22:00 as proposed), for a period of time from roughly 17:00 to 18:00 when natural light is insufficient at darker times of the year. This continuous use would be significant above the existing situation and unacceptably illuminate the rooms in close proximity. Measures to reduce the effect of the increase in light such as drawing curtains and blinds would not be sufficiently effective and be an unfair burden on the occupiers of No 175 to expect as adequate mitigation.
8. I have also given some thought to further mitigation measures but cannot reasonably see how taller boundaries, planted or otherwise, could be sufficiently effective without being harmful in themselves. There is also some context to the new lighting insofar as there being existing lit courts as well as street lighting along Gorse Hill and Gynsill Close. However, and as I have said, the former is some distance from the rear of No 175. Sufficient for it not to have an unacceptable effect on the dwelling. In the case of the latter, streetlights on Gorse Hill are also well separated from the rear garden of 175 and Gynsill Close lights only impose on the front of the dwelling.
9. The matter of noise disturbance does not give me cause for concern. The number of players at any one time would be limited and general noise would be associated with players, a very limited number of spectators as well as striking of the ball. The existing playing time at the site is not restricted by any other means and the car park is situated a good distance from No 175.
10. I am acutely aware of the need for the club to improve their facilities and respond to demand. There would be some benefit to the club to increase its

offer and this has potential to encourage people to exercise more in the interests of promoting good health and wellbeing. There are however already four out of the total six courts lit and thus available for use in low light conditions. It doesn't therefore strike me as essential for its survival, taking this and what I have read in the evidence into account, to increase that to six. In any case, any improvement to facilities needs to be balanced with and not at the expense of the living conditions of neighbouring occupiers.

Conclusion

11. For the reasons I have explained, the proposed development would give rise to harm to the living conditions of the occupiers of No 175 Gynsill Close. This harm would result in conflict with Policy CS2 of the Core Strategy¹ and saved Policy EV/1 of the Local Plan². Amongst other things and along with paragraph 127 of the Framework, these policies seek to ensure that new development is of a high quality design that protects/safeguards the amenity of people who live nearby and provides for high standards of amenity for existing and future users of land and buildings. The appeal is therefore dismissed.

John Morrison

INSPECTOR

¹ Charnwood Local Plan 2011 to 2028: Core Strategy 2015

² Borough of Charnwood Local Plan 1991-2006 (2004)