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# Appeal Decision

Site visit made on 29 November 2022

**by E Grierson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 January 2023**

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**Appeal Ref: APP/Y3615/W/22/3298507**

**Merrow Lawn Tennis Club, Epsom Road, Guildford GU4 7AA**

- 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 David Clarke (Merrow Lawn Tennis Club) against the decision of Guildford Borough Council.
  - The application Ref 21/P/00630, dated 21 March 2021, was refused by notice dated 12 January 2022.
  - The development proposed is described as the conversion of one outdoor grass tennis court to one outdoor porous asphalt tennis courts with the installation of LED floodlighting and associated works.
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## Decision

1. The appeal is allowed and planning permission is granted for one outdoor tennis court with the installation of LED floodlighting and associated works at Merrow Lawn Tennis Club, Epsom Road, Guildford GU4 7AA in accordance with the terms of the application, Ref 21/P/00630, dated 21 March 2021, and the plans submitted with it, and subject to the conditions contained in the schedule to this decision.

## Preliminary Matters

2. The description of the proposed development on the application form states that the surface of the proposed tennis court would be porous asphalt. However, the appellant has stated that they intend for the playing surface to be artificial grass/carpet similar to the surface of the existing six courts at the tennis club. Therefore, I have considered the appeal on this basis and amended the description of the proposed development in the paragraph granting planning permission accordingly. A condition has also been included to confirm the intended surface of the tennis court.
3. A number of third party representations indicate that the appeal site is not currently used as a tennis court and during my site visit I saw no evidence of an existing tennis court on the site. Therefore, I have removed reference to this within the paragraph above granting planning permission.

## Main Issues

4. The main issues are the effect of the proposed development on:
  - the character and appearances of the surrounding area, including the Area of Great Landscape Value (AGLV) in which it is located; and

- the living conditions of the occupiers of neighbouring dwellings with regard to noise and light spill.

## **Reasons**

### *Character and Appearance*

5. The appeal site is an area of land to the south of the existing tennis courts and club house at Merrow Lawn Tennis Club and adjacent to a large building used as a gym. The appeal site is located within an AGLV, specifically classified by the Council in the officer's report as the rural-urban fringe character area and is between housing development to the east and more open and rural land to the west. The land is open and undeveloped, however it is relatively self-contained between the existing tennis club, the gym and a large hedge separating it from the garden of a neighbouring property. Therefore, the appeal site currently has a neutral effect on the landscape character of the AGLV.
6. The proposed tennis court, at ground level only, would not significantly alter the overall appearance of the appeal site and the proposed fencing surrounding it would be a modest structure with a limited bulk. This would have limited visibility from the public realm due to its height and the enclosed nature of the site. Therefore, the presence of a tennis court and the fencing surrounding it would not harm the open character of the site or alter the perceived visual separation between the existing tennis courts and the area to the south of the tennis club in the AGLV.
7. The proposed floodlights would be greater in height than the existing hedge on the boundary of the appeal site. Therefore, they would be visible from surrounding properties and some other vantage points. However, set against the backdrop of the gym building, they would not appear as overly large or dominant additions to the site and would be in keeping with the existing floodlights currently used on the adjacent tennis courts. Their slender structure and limited bulk would ensure that the open nature of the site is retained.
8. As such the proposed tennis court, fencing and floodlights would not conflict with the rural landscape character of the local environment or the distinctive open character of the AGLV.
9. Due to the location of the appeal site on the edge of an urban area, adjacent to a number of residential properties and other lit tennis courts, I am not persuaded that the area currently benefits from dark skies which contribute positively to the character and appearance of the area. Particularly due to the close proximity of a large park and ride facility, which would be well lit during the evening. Therefore, the presence of a small amount of additional floodlighting on the proposed tennis court would not fail to conserve any existing dark skies.
10. Reference has been made by third parties to a boundary review of the Surrey Hills Area of Outstanding Natural Beauty (AONB), with recommendations that this designation should include the golf course adjacent to the appeal site. However, as the boundary review has not been finalised, I do not afford it any weight in my consideration of this appeal.
11. In conclusion, I find that the proposed development would not harm the character and appearance of the surrounding area or the AGLV in which it is located. It would therefore comply with Policies P1 and D1 of the Guildford

borough Local Plan: strategy and sites 2015-2034 (the 2019 LP) and Policies R6 and G1(8) of the Guildford Borough Local Plan (the 2003 LP). These policies collectively seek to ensure that development proposals would not harm the distinctive character of the AGLV and minimise the glare and spillage of light from external lighting, with planning permission granted for the increased use of recreational facilities where the visual impact is acceptable. The proposed development would also accord with the general design objectives of the National Planning Policy Framework.

### *Living Conditions*

12. The proposed tennis court would be located adjacent to the rear garden of 3 Abbot's Way, separated by an existing hedge on the boundary. The proposed floodlights would be visible above this hedge. The lighting design document, submitted as part of the application, outlines the design of the proposed floodlights. This indicates that the proposed lighting scheme is acceptable against the guidance set by the Institution of Lighting Professionals (ILP) when assessing nuisance.
13. The lighting design document also shows that light spill would occur in the garden of No.3. However, I consider that the level of luminance would be minimal on the edge of an urban area in which the neighbouring property is located. Particularly when viewed against other sources of light in the area, such as the lighting from neighbouring properties and the floodlights on the existing tennis courts. It is also noted that the lighting design document includes details of a deflector to reduce the level of light spill experienced by neighbouring properties. This has been secured by a condition requiring compliance with the lighting design document.
14. Furthermore, due to the position of the proposed tennis court, this light spill would only effect parts of the rear garden of No.3 and would not extend to the dwelling itself during the hours of darkness. Therefore, it would have little impact on the occupiers of this property when inside their dwelling during the evening. A condition has been included to ensure that the floodlights are turned off at a suitable time to ensure any light spill would not impact the occupiers of No.3 during the night, when additional lighting may be more perceptible and disturbing. Due to their distances from the appeal site, no other residential properties in the surrounding area would be unacceptably effected by light spill from the proposed floodlights.
15. Reference is made by the Council in relation to ongoing issues at the tennis club, highlighted a complaint concerning the compliance of conditions and mitigation measures associated with the flood lighting scheme approved in 2011 for the adjacent tennis courts. No evidence has been provided to demonstrate this. Nevertheless, concerns in relation to the conduct of the tennis club and the impact of other developments are a matter for the Council outside of this appeal.
16. The proposed tennis court would clearly result in some additional noise from people using the court and the tennis ball hitting the racket and the surface of the court during play. However, the increased intensity from a single tennis court would be limited and the proposed artificial grass surface would help to reduce the levels of noise experienced when compared to an asphalt court. Any noise generated would not be significantly greater than the noise generated from the existing tennis courts, people using the club house or people using the

other sport facilities within this area, including the noise of vehicles travelling to and from the site. Furthermore, there is no compelling evidence that the reflection of noise from the wall of the gym building would significantly exacerbate the issue.

17. The use of the tennis court would be restricted to daytime hours, in line with the existing opening hours of the tennis club, and the hours where the floodlights are permitted to be illuminated. Therefore, any noise generated from the proposed development would not be during restricted hours when any noise may be less permissible.
18. Consequently, the proposed development would not harm the living conditions of the occupiers of neighbouring dwellings and would accord with Policy G1(3) of the 2003 LP. This policy seeks to ensure that the amenities enjoyed by occupants of buildings are protected from neighbourly development, including noise. The proposed would also accord with the National Planning Policy Framework insofar as it seeks to protect the living conditions of the occupiers of neighbouring dwellings.

### **Other Matters**

19. The appeal site and proposed development would be located in the Green Belt. The Council have found that the proposed development would not be inappropriate development in the Green Belt, as it would fall under the exception listed under paragraph 149 (b) of the National Planning Policy Framework which allows for the provision of appropriate facilities (in connection with the existing use of land) for outdoor sport, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
20. The provision of a tennis court would fall under appropriate facilities for outdoor sport. The court itself would be at ground level and the proposed fencing and floodlights surrounding it would be modest in scale and slender in design. Therefore, the proposed development would preserve the openness of the Green Belt. The proposal would also not conflict with any of the purposes of including land within the Green Belt as listed in paragraph 138 of the Framework. Therefore, I agree with the Council's finding that the proposed development would not be inappropriate development in the Green Belt.
21. Due to the limited nature of the proposed development, I do not consider that it would significantly increase the amount of vehicle movements to and from the appeal site. Therefore, the impact upon highway safety from the proposed development would be negligible. Furthermore, no evidence has been provided to demonstrate the presence of wildlife on the appeal site or in the surrounding hedges. As such, I am not persuaded that the proposal would significantly harm biodiversity in the area.
22. There are also third party objections relating to the size of the proposed tennis court, space around the proposed tennis court for the maintenance of hedges and compliance with current conditions on the site. However, these are not planning matters and therefore have no bearing on my consideration of the appeal.

## Conditions

23. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. I have also included a condition specifying the playing surface of the tennis court as it is different to that detailed on the application form, as confirmed by the appellant.
24. Conditions have been included relating to the operation of the floodlights on the tennis court, including restricting their hours of operation and ensuring they comply with the details contained in the submitted lighting design document. These conditions have been imposed to protect the living conditions of the occupiers of neighbouring dwelling from excessive light spill. I have amended the condition relating to the hours of operation of the floodlights to remove the reference to dusk, as this is an imprecise timeframe. This has been altered to half hour before sunset. Neither party have objected to this amendment.
25. A condition has also been included preventing group coaching from taking place on the approved tennis court to protect the living conditions of the occupiers of neighbouring dwelling from excessive noise that this may generate. However, I have not included a condition requiring the submission of a noise management plan for the site, as I have concluded that the general use of the proposed tennis court would not generate a significantly greater level of noise than the existing uses within the area.
26. I have not included a condition relating to the restriction of ball machines and hitting walls, as no evidence has been provided to show that this type of equipment would be used regularly on the approved tennis court. Therefore, I do not consider that such features would generate a significant increase in noise on the approved tennis court, when compared to other adjacent tennis courts at the tennis club. The appellant has also suggested a condition restricting the use of floodlights on the approved tennis court to only when the other floodlights are in operation. However, I do not consider that this is necessary as it has been found that the light spill from the approved floodlights is minimal and, due to the location of the site, would not impact upon existing dark skies.

## Conclusion

27. The proposed development would not harm the character and appearance of the surrounding area, including the AGLV, or the living conditions of the occupiers of neighbouring dwellings in relation to light spill and noise. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*E Grierson*

INSPECTOR

## Schedule of 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: 2020 CAS 044 010 A, 2020 CAS 044 011 A, 2020 CAS 044 012, 2020 CAS 044 013 B, 2020 CAS 044 014, 2020 CAS 044 015 A, 2020 CAS 044 016, 2020 CAS 044 017, 2020 CAS 044 018 B and 2020 CAS 044 019 B.
- 3) The finished playing surface of the tennis court hereby approved shall be an artificial grass/carpet. This shall be retained for the lifetime of the development.
- 4) The floodlights hereby permitted shall only be illuminated half hour before sunset until 21:30 on Monday to Saturday and half hour before sunset until 18:30 on Sunday.
- 5) The floodlights hereby approved shall conform to the lighting standards and intensity contained in the Lighting Design Document PA.02 dated 26 February 2021 and shall be maintained at this level at all times.
- 6) There shall be no coaching of groups on the court hereby approved.