



Appeal Decision

Site visit made on 18 April 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 May 2023

Appeal Ref: APP/Q4625/W/22/3309578

Marsh Lane, Solihull, West Midlands B91 2PF

- 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 Ian Armfield, Solihull Tennis Club, against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/01118/PPFL, dated 23 May 2022, was refused by notice dated 30 September 2022.
 - The development proposed is to add a lighting scheme to the bottom three tennis courts in addition to lights already in existence on the top 3 courts.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to an emerging development plan and suggests that a new plan might have been adopted prior to the determination of this appeal. I have not been made aware by either party of the adoption of a new plan or any further details beyond those included in the appellant's statement. Whilst I have had regard to the proposed policy revisions cited in the appellant's statement, I have no information as to whether there are unresolved objections to them. However, in any event, based on the information before me they do not significantly change the approach from those in the adopted plan and will not therefore have a significant bearing on my decision. I will therefore refer to those policies in the adopted plan.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings with regard to the potential for light spill and noise disturbance.

Reasons

4. Solihull Tennis Club lies within the residential suburbs of Solihull. It shares an access with Solihull Cricket Club and lies to the north west of the cricket pitch. There are six courts in total arranged in two adjoining blocks of three courts and the nearest residential properties are those on Albany Gardens, Alderham Close and Oakley Wood Drive. The most northerly (upper) courts already have floodlighting, and the appeal proposal seeks to install floodlighting to the remaining three (lower) courts.
5. The lighting scheme brochure includes details of the floodlighting, together with light spillage contour diagrams, and attaches a copy of the Institute of Lighting

Professionals Guidance Note (ILPGN) for the reduction of obtrusive light. The Council also refer to this latter document. Although the appellant comments that this document is not referenced in the Council's planning policy documents and that there has not been opportunity to consider it, I understand that this is the industry standard which is used by Councils, lighting professionals and consultants. Indeed, in the appeal before me, both the Council and the appellant's lighting consultant have referred to this document and I see no reason to not be guided by it. This document provides design guidance which provides light intrusion/nuisance limits for nearby residential dwellings.

6. The light spillage contour diagrams submitted with the application are overlaid on an ariel photograph to show the interrelationship with nearby residential properties. These diagrams are grainy and unclear making it difficult to correctly identify the light contours and properties affected, and no adequate interpretation is provided by the lighting consultant to explain how the proposed scheme complies or otherwise with the ILPGN. However, they indicate to me light spillage levels affecting numerous residential properties which appear to considerably exceed those limits identified by the ILPGN.
7. The properties predominantly affected include those on Alderham Close and Albany Gardens which have windows facing the affected courts. Although I have not been provided with details of the living arrangements within these three storey apartments, there are likely to be habitable rooms including bedrooms on all floors. Given that any intermediate hedging is well maintained and predominantly low in height and with little other intervening planting there would be little filtering of the light spillage into the affected rooms. I note the appellant's comment regarding the Lux levels expected in relation to an emergency staircase, but I have not been provided with these technical details or an explanation as to the relevance of this to the appeal before me.
8. The appeal scheme also fails to assess the cumulative effects of the existing and proposed floodlighting. It is likely that some of the residential properties would be affected by the combined light effects with the new lighting seen against the backdrop of the existing floodlighting. These matters were raised by the Council's Public Protection Consultee during the determination of the application and the ILPGN also requires the Lux levels to be based on the summation of all lighting installations. In addition, whilst I note that the proposed light columns would be lower than those on the top court, that the floodlights would incorporate the most modern LED lighting and that the ground levels themselves would be lower, the ILPGN references that a lower mounting height may in fact result in increased light spill and glare. It is therefore critical that in a proposal such as this located so close to residential properties that full details of both the proposed and combined lighting levels and their effects are provided by a professional lighting consultant.
9. Installing floodlighting on the lower courts would undoubtedly increase the hours during which tennis could be played, and I am not aware of any time restrictions for the courts. Whilst playing tennis after dark could currently take place using temporary floodlighting, this is an unlikely scenario and there is no indication that this has previously happened. Therefore, there is an increased potential for harm caused by light intrusion due to the extended hours of play. The use of these courts after dark is also likely to cause noise disturbance to the occupants of the nearby residential properties when there currently is an expectation of the courts not being used.

10. The existing floodlighting of the upper courts has been in place for a number of years, and I am not aware of any complaints to the Council regarding light or noise disturbance. I also note that the proposed scheme has been designed with efficient LEDs, the columns are no higher than necessary to meet the minimum Lawn Tennis Association guidelines, guards can be fitted to minimise backward light spill and the colour of the lighting columns can be agreed. The appellant has also actively consulted nearby residents and sought to address issues raised. However, despite these matters and the potential to add conditions to limit the hours or days of use, the evidence before me indicates that the proposed lighting scheme would cause significant harm to the living conditions of nearby residents.
11. Whilst the appellant does not have to justify the need for the floodlights, the evidence suggests that the club has recently grown in membership and a coaching and usage plan justifies the significant expenditure. The additional floodlighting would help secure its future and offer more opportunities for the community. Whilst these factors attract some weight in favour of the proposal, they do not outweigh the harm that I have identified nor provide justification for a proposal that conflicts with the development plan.
12. To conclude, the appeal proposal would have a harmful effect on the living conditions of the occupiers of neighbouring dwellings with regard to the potential for light spill and noise disturbance. The proposal would be contrary to Policy P14 of the Solihull Local Plan, 2013, which seeks, amongst other things, to protect the amenity of existing and potential occupiers of residential properties. It would also be contrary to the amenity protection aims of the National Planning Policy Framework 2021.

Conclusion

13. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal is dismissed.

G Bayliss

INSPECTOR