



Appeal Decision

Site visit made on 13 November 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/Z5630/W/24/3345067

Alexandra Recreation Ground, King Charles Road, Surbiton KT5 9BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Roy Staniland, Park Tennis in Kingston Limited, against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00368/FUL.
 - The development proposed is the installation of 12 No. low level LED floodlighting to two existing outdoor tennis courts.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in the appeal are: (i) whether the installation of 12 No. low level LED floodlighting monopoles and their use within specified periods of darkness would be inappropriate development in the Metropolitan Open Land ('MOL') having regard to the revised Framework; any relevant development plan policies, and the effect on the openness of the MOL; (ii) the effect of the proposal on the character and appearance of the area, and (iii) if the development is inappropriate, whether any harm by reason of inappropriateness and any other harm is clearly outweighed by 'other considerations', such as to amount to the very special circumstances required to justify it.

Reasons

(i) Whether Inappropriate Development

3. The Council has explained in the Officer's Report that the appeal site lies within designated MOL and that Policy G3 of the London Plan 2021 says that MOL is afforded the same status and level of protection as the Green Belt and should be protected from 'inappropriate development' as set out within Section 13: 'Protecting Green Belt Land' of the recently revised National Planning Policy Framework ('the Framework'). I have therefore adopted this approach.
4. Framework Paragraph 154b) explains that the provision of facilities for outdoor sport and outdoor recreation are not inappropriate. However, this is subject to the provisos that the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. In this case, as regards the former there are two separate aspects of the appeal proposal to be

considered in terms of their effect on openness: the lighting equipment and the illumination when in use.

5. Firstly as regards the equipment, the floodlighting would be achieved by the erection of twelve 'slimline' monopoles each of 7 metres in height with an additional 0.2 metres for the LED panels. They would be arranged in four parallel rows of three columns each along the sides of the two middle courts. The Council does not consider that in themselves these 'buildings' as so defined in the Town and Country Planning Act 1990 would have an adverse effect on the openness of the MOL.
6. However, given their substantial height and their grouping within the broadly middle area of both the tennis courts and the recreation ground and with no buildings in the immediate vicinity I disagree with the Council. I take the view that a dozen 7-metre high poles with an LED panel attachment at their summits would draw the eye and be seen as a cluster of equipment affecting the skyline and reducing openness. They would be particularly conspicuous in winter when the nearby trees are not in leaf. The harm would be partly mitigated by their functional context but would nonetheless remain to some degree.
7. Turning to the floodlighting itself, the area of tennis courts is within the Alexandra Recreation Ground which although accommodating a number of recreational activities is entirely dark at night. This significant swathe of darkness is perceived as equating to an absence of development and thereby also an area of openness, in marked contrast to the surrounding residential suburbs. However with the floodlights in use, the tennis courts with their tall wire mesh enclosures and the floodlight structures themselves would be in complete contrast to this perception. I consider that this contrast with the dark area would be such as to comprise a harmful effect on the openness of the MOL.
8. The appeal parties, including a local resident consultee, have drawn my attention to other appeal decisions with findings both in agreement and disagreement with my view of the effect of floodlighting on openness. The proposal by Twickenham Tennis Club at Lebanon Park in Twickenham (Appeal Ref. APP/L5810/W/18/ 3219261: Dismissed) referred to in the third party representation appears to have some particularly close parallels, albeit in that instance there was an additional constraint of the Conservation Area. However, my conclusion in this appeal is nonetheless based solely on the particular circumstances of this site and its location in Alexandra Recreation Ground.
9. Accordingly on issue (i) I conclude that because of its effect on openness the proposal would fail to satisfy the exception in paragraph 154b) of the Framework and would conflict with Policy G3 of the London Plan 2021 and Policy DM5 of the Kingston Upon Thames adopted LDF Core Strategy 2012 ('the Core Strategy'). As such the appeal scheme would be inappropriate development on the MOL.

(ii) Character and Appearance

10. Although the tennis courts are an artificial surface, the surrounding areas of the Recreation Ground are for the most part extensive areas of grass with their appearance complemented by mature trees and hedgerows. I acknowledge that the Recreation Ground as a whole accommodates facilities for a number of

different activities, but its informal layout and verdant appearance are such that it also conveys a semi-rural ambience equally suitable for a casual stroll, dog walking, picnics or informal kickabouts and children's play.

11. This is different from many other recreation grounds which are more of an intensive hub of activity with organised hard surface sports including football, indoor facilities and extensive car parking to meet periods of peak demand. More often than not, such recreation areas already have playing areas or sports pitches that are floodlit but as far as I am aware there is no external lighting in any other part of Alexandra Recreation Ground.
12. This total darkness at night-time is an important part of the character and appearance of Alexandra Recreation Ground and although the appeal scheme would be 'low level LED floodlighting' it would nonetheless be visually intrusive and a notable exception to the other parts of this important amenity area. In this context and having visited the area on a second occasion after dusk, I am not minded to support the appellant's description of Alexandra Drive in the comment that *'the illuminated courts sit directly alongside a well-lit suburban road with high levels of activity throughout the day and evening'*. And in this context, I consider that the effect on character is not just the difference between light and dark but also the activity associated with the former and the associated comings and goings, albeit I note that this is not the Council's view.
13. Furthermore, I am also concerned that there are other clubs and activities in the Recreation Ground that conceivably might also aspire to extend their hours of operation. And if the floodlighting were to be approved in this appeal it would be difficult for the Council, in all fairness, to resist such proposals.
14. On issue (ii) I therefore conclude that the proposed floodlights would have an unacceptably adverse effect on the character and appearance of the site and its surroundings. As such, I consider that the Council is correct to identify a conflict with Core Strategy Policy CS8; Part m of Policy DM10, and with Policy D3 of the London Plan.

(iii) Other Considerations

15. The floodlighting would allow the courts to be used up to 2100 hours through the months October to March, weather permitting. The appeal statement refers to a high level of demand, particularly for junior coaching sessions. The appellant refers to positive support by development plan policies, including London Plan Policy S5 and Core Strategy Policy DM21. Between them these policies support the installation of sports lighting and more generally the provision, enhancement and accessibility of sport and recreation facilities, whilst there are similarly supportive Government policies in the Framework.
16. The Officer's Report has given little or no credit for the merits of the proposal and I consider that in addition to the more obvious advantages of providing increased capacity, the community involvement and motivation for the additional playing time is particularly admirable. For these reasons I afford the proposal weight of some significance.

Planning Balance

17. The proposed floodlighting and the structures to provide it would not maintain the openness of the MOL and would therefore be inappropriate development, which is by definition harmful. Significant additional harm would be caused by

the adverse effect of the floodlighting on the character and appearance of the Recreation Ground and the perception thereof from neighbouring residential roads.

18. Paragraph 153 of the Framework, as applied by extension to the MOL, says that inappropriate development should not be approved except in 'very special circumstances' and that these will not exist unless the potential harm to the MOL by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed other considerations.
19. These considerations indicate that to the extent that the floodlights would allow greater use of an existing facility to members of the local community rather than just to a members' club, and also allowing for associated mental and physical health benefits of that increased activity, there is a meritorious case made for permission to be granted, and as indicated it deserves to be afforded weight of some significance.
20. However, these public benefits would not clearly outweigh the combined harm by reason of the appeal scheme's inappropriateness and the harm to the character and appearance of the area. Accordingly on issue (iii) the 'very special circumstances' do not exist to allow the appeal to succeed.

Conclusion

21. The appeal scheme is in conflict with a number of the Council's policies as well as Government policy in the recently revised Framework. And although its merits justify significant weight these considerations are insufficient to overcome the cumulative harm that I have identified. I have taken account of the appellant's broad agreement to conditions suggested by a third party consultee, but whilst these would to an extent ameliorate some of the concerns, they do not overcome the principal harms arising from the main issues.
22. Accordingly, for the reasons explained and having had regard to all other matters raised the appeal is dismissed.

Martin Andrews

INSPECTOR