
Appeal Decision

Site visit made on 11 June 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 3 July 2025

Appeal Ref: APP/K3605/W/24/3357865

Ditton Fields, Kingston Grammar Sports Field, Summer Road, Thames Ditton, Surrey KT7 0RD

- 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 David Leen, Kingston Grammar School, against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/2232.
 - The development proposed is the installation of 12 floodlights to existing hockey pitches.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal site lies close to Hampton Court Palace, a complex of Grade I and II listed buildings, I must consider the statutory duty placed upon me under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Although the decision notice does not reference harm in relation to a Scheduled Monument, this is mentioned in the officer report. I have included this in the main issue relating to designated heritage assets.
3. The Council refused the application for five reasons, with the fifth relating to a likely cumulative impact with a proposed development within the wider site which was subject to a different application¹. The Council has clarified that as the related planning application was refused and has not been subject to an appeal, it is no longer contesting this reason. I have therefore not considered this matter further.
4. A similar scheme was the subject of dismissed appeals in 1998² (the appeals) proposing 16 floodlights extending to 15m in height. The current appeal proposal relates to 12 floodlights of a similar extended height and located in the same approximate area. I shall refer to these appeals in my decision, although I will not consider the effect of the unlit, retracted lights as it does not appear that there is any objection to these.

¹ Ref. 2023/2233

² Appeal Ref.: T/APP/K3605/A/97/287082/P2 and T/APP/K3605/A/98/1011949/P2 (Application Ref. 1998/1273 and 97/0667)

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area, including the setting of designated heritage assets; and
- The effect of the proposed development on protected species.

Reasons

Character and appearance and designated heritage assets

6. The appeal site is part of Ditton Fields which lie alongside the River Thames and relates to two all-weather pitches in the north west corner of the sports fields. To the east of the pitches is a band of trees which gently tapers towards its southern end and beyond to the east is a wide and grassy path alongside the river. To the north and west of the pitches are further wooded areas. I saw during my visit that the trees on three sides of the pitches have a significantly enclosing effect. They also limit more distant views of the pitches from surrounding areas beyond the sports fields, although clear views were possible from the riverside path at the point where the trees taper off.
7. Hampton Court Palace (the Palace) lies just across the river from the appeal site. As well as being a Grade I listed building (Ref.1193127), the Palace is a Scheduled Monument (Ref.1002009) and a Grade I Registered Park and Garden (Ref.1000108). There are also multiple listed buildings within the estate. It is therefore a collection of designated heritage assets which are of exceptional heritage value and some of the highest importance in the country.
8. The National Planning Policy Framework (the Framework) sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. It goes on to state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Therefore, as a collection of heritage assets of some of the highest order, finding any harm would be a high bar in the heritage balance.
9. The glossary of the Framework states that the significance of a heritage asset derives not only from the heritage asset's physical presence but also from its setting. It defines the setting of a heritage asset as the surroundings in which an asset is experienced. These are not fixed and may change over time. The Framework indicates that any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.
10. I have reviewed the official list entries for each designated asset and have viewed the appeal site and its wider context including from the Palace. For the purposes of this appeal, I consider that the southerly views from the Palace, towards and across the river, strongly contribute to the significance of the designated heritage assets. These include key views from the William and Mary, four storey range by Sir Christopher Wren, together with views in a similar direction from the gardens, in particular the Privy Garden. From these vantage points the King's formal

apartments were intended to provide an impressive riverside view, and the Privy Garden was laid out as a highly formal garden directing the eye towards and through the great wrought iron screen at the riverside entrance. The backdrop to this view is the trees on the far side of the riverbank. I saw numerous historic drawings within the Palace illustrating these views, highlighting their significance, and many of these views have been maintained.

11. The Historic England consultation states that the Palace is historically a dominant building which looks across wide vistas of undeveloped countryside. It also mentions that the riverside in this area retains a largely natural appearance in keeping with its historic situation which helps visitors enjoy the palace as it would have appeared in the past. It concludes by saying that the site has profound significance, is extremely precious and provides an exceptional rare ability to view and understand our history. The view of the trees on the skyline across the riverside from the Palace, also gave me the impression of an extensive rural view. From the viewpoint in the garden and on the first floor, I was not able to see any man-made features beyond the riverside, corroborating with the views of Historic England. Reflecting the significance of the southerly views, Elmbridge Development Management Plan (2015) (EDMP) identifies a Strategic View across the Privy Gardens. Policy DM20, amongst other things, seeks to ensure that development within these views should not obscure or adversely affect them.
12. The appeal site lies across the river, just beyond the southern view along the Privy Garden. It is visually separated by the band of trees partially lining the river bank and the greater swathe of trees surrounding the sports pitches. On this basis, the proposed floodlights and their illuminating effects have the potential to appear above the skyline of trees and therefore could impact the contribution that these views make to the significance of the heritage assets. The previous Inspector also considered that the setting of the Palace extended across the river to include the wider, scenic environs.
13. The previous Inspector had the benefit of viewing a temporary mobile lighting unit erected on one of the proposed pitches to assess the likely effect of the floodlights. Despite the screening effect of the trees and the distance from the Palace, the Inspector considered that the mobile lighting unit, lower in height than those proposed, could be seen from the Privy Garden. It was more discernible at first floor level within the Palace and even more visible from the third floor. Therefore, the Inspector concluded that the floodlights would unacceptably detract from the open nature of the setting of the Palace.
14. Regarding the effect of the illumination, the Inspector considered that the box or boxes of light emanating from the floodlights would further erode the setting of the Palace by having an urban nature and giving the impression of a substantial development on the appeal site. The Inspector also highlighted the potential for the floodlighting to compete with the illumination of the Palace, the latter justified by its status.
15. The appellant considers that the previous appeal decisions are no longer relevant or reliable as a point of reference as the physical site is now very different. It is suggested that the surrounding vegetation has grown up and due to heavy tree and vegetation screening between the site and the river, the grounds of the Palace would now be entirely unaffected by the appeal proposal, even in winter.

Furthermore, it is suggested that lighting technology has advanced, and the light spill would not extend over the river.

16. Unlike the previous appeal proposals, a temporary lighting unit has not been erected and there is little detailed modelling to demonstrate to what extent the proposed lighting would be seen or be discernible from the heritage assets. This is therefore a matter of judgement for me based on the submitted information and my assessment of the site. The appellant's arboricultural report (Crown Tree Consultancy, June 2023) reveals that the trees around the pitches are generally 6m tall with some rising to 9m and 10m. Whilst this assessment focusses on a line of trees immediately around the pitches, I saw no other trees in the wider area which appeared noticeably taller than those surveyed. The survey, therefore, is an indication that the trees in this area would be generally much lower than the proposed 15m tall floodlighting.
17. The figures and drawings in the appellant's appeal statement suggest that the floodlights would sit beneath the tree canopy when viewed from the Palace gardens. However, these do not appear to be verified views, and it is not clear why some of the trees closer to the river would be so significantly taller than those in the arboricultural report. I also saw that the trees to the south eastern corner of the pitch, nearest to the river, were at points only a few trees deep. This suggests that at this point, close to the centre of the southerly views along the Privy Gardens, the floodlights would be even more noticeable in this location. Therefore, there is little to suggest that the vegetation in this area is any different in height or density to that considered by the previous Inspector. Nor does it appear that the nature of the views from the Palace have changed in this time.
18. I find that the previous Inspector's findings remain relevant and in the absence of a similar lighting demonstration, it seems likely that the current proposal would be similarly seen. Although this proposal would be 12 floodlights rather than the 16 previously proposed, each column would accommodate 3 floodlights and so their impact would be significant. It is also not adequately explained whether any additional illumination would be needed elsewhere on the site to support the use of the pitches after dark. Given the importance of the key views from the Palace and the contribution that the backdrop of trees makes to this vista, I conclude that there is a high probability of the floodlights rising above the tree-line and this would be harmful to the significance derived from the setting of the heritage assets.
19. Floodlighting technology may have improved such that limited light would spill beyond the pitches. However, I have not been assured that I would not be able to see the light source or the light emitting from them. There is little to explain how seasonality would affect light penetration through the trees, and I anticipate that there would be greater visibility when the trees are not in leaf, the time during which the lights would be used. Nor is there sufficient evidence of other noticeable sources of light in this direction such that the floodlights may blend in with them. I have also taken account of recent developments nearby and street lighting, but I am not assured that their lighting effects would be visible in these southerly views from the Palace. In this regard, I again agree with the previous Inspector that with the floodlights turned on, this riverside view, which has a feel of undeveloped countryside, will give the suggestion of a substantial development and would have an urbanising effect.

20. Although the floodlights would only be in use for a limited number of hours and days throughout the year, which would be less than those proposed under the previous appeals, when in use they would still harm the significance of the heritage assets. As an internationally important heritage site even harm over a limited duration would still be harm commanding great weight, requiring a compelling justification. It may be that Hampton Court installs floodlights for temporary events but that would be expected as part of the use of such a public site and they would not be permanent installations such as those proposed here.
21. Historic England have not objected to the proposal, but it seems to me that they may not have been aware that there was a dispute as to whether the floodlights would be visible. I also note their suggestion for a strategy to maintain and enhance the screening effect of the trees. I am not aware of any such strategy or whether the land in question is within the appellant's control. In any event, the Gardens Trust is also a statutory consultee and has objected, considering that the reasons given by the previous Inspector remain applicable.
22. Whilst the previous Inspector may have been considering a cumulative effect of two proposals, the consideration of the floodlights appears to be a comparable scenario. Furthermore, the planning policy situation may have changed since this appeal, but the duties of the Act remain the same and the Framework provides clear guidance on assessing proposals. It is suggested that the public would not have access to the Palace gardens when the floodlights would be used but listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether public views are available. Whilst the proposed floodlights may be sited outside the Strategic View they would be seen as part of the wider context in which this view is seen. Any detractor in this wider vista would harmfully draw the eye and cause a distraction.
23. In the absence of any temporary installation or modelling to suggest otherwise, and in the absence of adequate mitigation, I must conclude that the proposed floodlights would be intrusive and would significantly harm the environment in which an exceptional range of buildings and sites associated with the Palace are appreciated and experienced. I find the harm in the context of the significance of the designated heritage assets, to be a moderate level of less than substantial harm in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal.

Public benefits

24. The Framework advises that the harm should be weighed against the public benefits of the proposal. In undertaking this balance, I have taken account of the Planning Practice Guidance which explains what constitutes a public benefit. In this regard, I am satisfied that there are aspects of the proposal that would undoubtedly be positive and of public benefit.
25. The school is an independent, co-educational school of significant size. As well as meeting its own sport's needs, including hosting competitive fixtures, the school advises that it also offers targeted community use of its sports grounds including for local junior schools, borough-wide events and local clubs. The pitches are used mainly for hockey which requires good light. The school advises that the pitches become unusable from mid-afternoon over winter which also negates after-school practice. Although the use of the pitches is not fully explained, I see no reason why

they would not have a valuable and active part to play in helping meet the needs of part of the local community. It is a valuable facility promoting sports education, health and fitness needs, even if the benefits are mainly limited to one school. The proposal would make efficient use of the facilities and would reduce the need to hire and travel to floodlit pitches elsewhere. I would regard these as public benefits of moderate weight, but I am mindful that as the facilities are already present, the proposed floodlighting would only allow a limited period of additional use.

26. However, the Government also places great weight on protecting designated heritage assets. Therefore, I attach great weight to the identified harm to the designated heritage assets and their importance amplifies the great weight which should be given to their conservation.
27. Whilst I acknowledge the public benefits of the scheme in general terms, which attract moderate weight, they would not outweigh the identified harm. As such, the proposal would not comply with the Act and Framework. In addition, there is no clear and convincing justification for the harm to the significance of the heritage assets nor is the harm adequately mitigated. There would also be harm to the wider character and appearance of the area. It would therefore fail to meet the requirements of EDMP Policies DM2, DM5, DM9, DM12 and DM20 and Policy CS17 of the Core Strategy (CS) which, amongst other things, seek to underpin the statutory and policy objectives.

Protected species

28. The Natural Environment and Rural Communities Act 2006 (the Act) places a duty on all public authorities to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. In addition, Circular 06/2005 (the Circular) states that the presence of protected species is a material consideration when a development proposal would be likely to result in harm to the species or its habitat. It goes on to say that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
29. The ecological appraisal (Wychwood Environmental, July 2023) advises that the trees around the pitches have a moderate potential to support foraging and commuting bats, and the river nearby also provides a valuable linear feature for bats in the local area. It advises that the trees adjacent to the appeal boundary were assessed for their roosting/hibernation potential, but none were considered suitable. It further advises that the woodland adjacent to the pitches would be subject to some light spillage arising from the proposal with the light spillage dropping away to nothing within the woodland to the north and east. The report concludes that although the wider site contains trees which could be utilised by foraging and commuting bats, the floodlights would only be used at set times during the winter months when there would be limited activity for bats. It concludes that the small amount of light spillage onto the woodland edges is considered unlikely to impact bats.
30. Both the Surrey Bat Group (SBG) and Surrey Wildlife Trust raised significant concerns in relation to bat roosting potential and light spillage. Additional reports concerning lighting modelling by PEC and a further report from Wychwood Environmental are submitted as part of this appeal. This latter report concludes

that alongside best practice measures, impacts on the surrounding ecological area would be limited and not significant.

31. SBG advise that they expect light levels at the woodland edge to be less than one lux. The lux contour levels shown in Wychwood Environmental's most recent report show much higher light levels penetrating the surrounding woodland, including almost to the woodland edge along the river. Furthermore, it is possible that in the winter light penetration would be considerably more. SBG also raises concerns regarding the survey work not being carried out during the proposed operating hours of the lights, as potential negative effects could still be experienced in the winter due to opportunistic feeding. It has also been suggested that the bat hibernation/roosting survey would have been best carried out in winter due to the limited foliage and it was not clear which areas had been assessed. Given these findings I, therefore, cannot conclude that the proposal would not adversely affect protected species.
32. The development would therefore conflict with EDMP Policy DM21 and CS Policy CS15 which state, require new developments to preserve existing habitats. It would also be contrary to the Act and the Circular, as well as the Framework which seeks to minimise impacts on biodiversity.

Other Matters

33. The appeal documentation suggests that the appeal site is close to the Hampton Court Park and East Molesey Kent Town Conservation Areas. Although I am aware of my statutory duty in relation to Section 72(1) of the Act, I have been provided inadequate information in relation to this. However, given that I am dismissing this appeal and have compelling evidence in relation to the likely impact on other designated heritage assets it has not been necessary for me to pursue this.

Conclusion

34. Whilst there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR