



Appeal Decision

Hearing held on 16 June 2009
Site visit made on 16 June 2009

by Martin Whitehead LLB BSc(Hons)
CEng MICE

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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Decision date:
8 July 2009

Appeal Ref: APP/B1930/A/09/2097860
Elliswick Lawn Tennis Club, Browning Road, Harpenden, Hertfordshire
AL5 4TR

- 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 J McGown, Elliswick Lawn Tennis Club against the decision of St Albans City & District Council.
- The application Ref 5/08/1671, dated 21 March 2008, was refused by notice dated 24 October 2008.
- The development proposed is the erection of 4 telescopic floodlighting columns to provide illumination to courts 5 and 6.

Decision

1. I allow the appeal, and grant planning permission for the erection of 4 telescopic floodlighting columns to provide illumination to courts 5 and 6 at Elliswick Lawn Tennis Club, Browning Road, Harpenden, Hertfordshire AL5 4TR in accordance with the terms of the application, Ref 5/08/1671, dated 21 March 2008, and the plans submitted with it, subject to the conditions in the attached schedule.

Main issue

2. The effect of the proposal on the living conditions of the occupiers of adjacent dwellings, with particular regard to matters of outlook, light pollution, noise and disturbance.

Reasons

3. Elliswick Lawn Tennis Club is a long established club, located in a relatively quiet suburban residential area. Its premises and land are surrounded by the rear gardens of dwellings fronting Browning Road, Elliswick Road, Sauncey Avenue and Stewart Road.
 4. The proposal would consist of the installation of 4 telescopic columns, each with 2 luminaires. They would be located at the corners of tennis courts 5 and 6, which are between courts 4 and 7. The appellant accepted at the hearing a condition restricting the use of the floodlights to between the hours of 1500 and 2130.
 5. The details provided by the appellant indicate that the columns, including the luminaires, would have an overall height of 8.47m, but would be able to be retracted to a height of about 3.8m. The appellant has suggested that the columns would automatically be retracted when not in use. This could be
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- controlled by an appropriate condition. The retracted columns would not be significantly higher than the fencing around the courts.
6. The tennis club land is bounded by hedges and trees, which are particularly high along the boundary with the rear of the dwellings fronting Sauncey Avenue. Although some of the highest mature trees near to that boundary are deciduous, I am satisfied that there is sufficient foliage in winter to ensure that only limited views of the columns, even when extended, would be available from the adjacent houses in Sauncey Avenue.
 7. The nearest house to any one of the columns would be 24 Browning Road. I observed at the site visit that the tennis courts are clearly visible from it. However, the columns would be slender and would be set against a backdrop of mature trees of a similar height and views of the surrounding fences and green 'all weather' courts. As such, they would not stand out as intrusive features when viewed from that property, particularly when retracted. Also they could be painted an appropriate colour, secured by condition, to reduce their impact.
 8. With respect to views from the adjacent dwellings in Stewart Road and at 21 Elliswick Road, I am satisfied that the boundary treatment and distance between these dwellings and the columns would be sufficient to ensure that the columns would not have an unacceptable effect. Therefore, as they would only be extended when in use, which would be when it is dark before 2130 hours, and neighbouring residents would be unlikely to be in their gardens at that time, they would not have a significant adverse effect on the outlook from residential properties.
 9. With regard to light pollution, the appellant has provided details of the proposed lighting design in a technical report prepared by Luminaire Pro Lighting Systems Ltd. The report includes a graphical table and an Iso contour plan showing the calculated overspill. These demonstrate that there would only be a very limited overspill of light into the adjacent gardens. Based on this, I am satisfied that the proposed floodlights would not cause any significant harm to the living conditions of neighbouring residents due to light pollution.
 10. Some of the neighbours at the hearing expressed concern about glare from the temporary lighting that had been used on the tennis courts. However, I have not been given any details of the type of lighting used. The proposed lighting would be designed to be suitable for the lighting of tennis courts. It would incorporate horizontally mounted lights, with high bulb positions within the luminaires and sharp reflector cut offs, that would be directed downwards and would minimise glare to neighbours. Therefore, although the light would be visible from some of the neighbouring properties, it would not result in a strong enough glare, or be close enough to adjacent houses, to cause any significant harm to the occupants' living conditions.
 11. Turning to matters of noise and disturbance, the floodlights would allow courts 5 and 6 to be used all the year up to similar times that they can already be used during the longest periods of daylight in the summer. However, they would not provide sufficient light to allow tennis to be played on any of the other 7 courts, or the use of the mini-court and adjacent wall. The use of these other areas when the floodlights would be in use could be controlled by

- condition. Also, I do not anticipate that the floodlights would be used during all the proposed hours of darkness, as their use would be likely to be limited by weather conditions and demand.
12. The game of tennis is not an inherently noisy activity, and the number of courts that would be available for use would be less than those during the summer. However, the sound of voices, particularly when coaching juniors, could noticeably increase the level of noise during the relatively quiet evenings. The appellant has stated that such coaching would take place between the hours of 1600 and 1900. A condition has been suggested by the appellant to restrict the number of players on each of the floodlit courts after 1900 hours to prevent this type of coaching any later in the evening. I am satisfied that this condition could help to reduce the noise from voices late into the evening, and junior coaching would be unlikely to take place at those times.
 13. The appellant has offered to resurface the gravel car parks using a quieter hard surfacing material. This would help to address the concerns about noise from additional vehicles that would use the car parks adjacent to residential properties. Also, as the car parks are currently used for evening activities at the club house and on the tennis courts during the summer, it would benefit local residents at that time of year.
 14. The Council's Environmental Health Department has not objected to the proposal, subject to a number of conditions. The Council has not indicated that it has received any complaints about noise from the use of the courts, including during the summer evenings. Also, no noise readings or surveys have been provided. Therefore, I have not been given any substantive evidence to prove that noise from the use of the tennis courts is a problem to local residents. Taking account of the above, I am satisfied that, with appropriate conditions, the proposal would not cause any significant harm to the living conditions of neighbouring residents due to noise and disturbance.
 15. Reference has been made to appeal decision, Ref APP/B1930/A/00/1039685, regarding a proposal for the installation of nine 6 metre high lighting columns to provide floodlighting to courts 4 and 5 at the current appeal site. I have not been provided with any details of the design of luminaires on this previous appeal. However, it involved the erection of many more columns, and the illumination of a court that is closer to the rear of properties along Stewart Road than the current appeal proposal. I am satisfied that the differences between the current appeal proposal and the previous appeal proposal, together with the suggested conditions, are sufficient to overcome the concerns of the previous Inspector.
 16. I have noted the concerns expressed by some of the local residents. I have not been given any reason to believe that permitting the proposed development would result in other courts being more likely to be floodlit, as each case should be determined on its own individual planning merits. The traffic that would be generated would not be any greater than that which is likely to be generated by the use of the courts in the summer. I am satisfied that the floodlighting would be a sufficient distance away from the public highway, and there would be enough screening provided by buildings and hedges to ensure that it would not adversely affect the character and appearance of the surrounding area. Other concerns, including noise from the

use of the wall for tennis, are either not directly relevant to this appeal or can be addressed by appropriate conditions.

17. The proposal is supported by the Eastern Region of Sport England. It would offer benefits to sport in that it would facilitate greater participation in tennis, and in particular coaching of juniors, for the whole year. Whilst local amenity has to be protected from the impact of floodlighting, in accordance with national advice provided by Planning Policy Guidance Note 17: *Planning for Open Space, Sport and Recreation*, I am satisfied that in this appeal the impact would not be sufficient to justify refusal of planning permission.
18. For the reasons given above, I find that the proposal would not have an unacceptable harmful effect on the living conditions of the occupiers of adjacent dwellings. Also, it would accord with City and District of St Albans District Local Plan Review 1994 (LP) Policy 69, with regard to its design, and Policy 80 in terms of its visual impact and its effect on the amenity of the residential area. Therefore, having regard to all matters raised, I conclude that the appeal should succeed.

Conditions

19. I have considered the 3 conditions suggested by the Council should I allow the appeal, including the standard time for commencement of works, together with other conditions that have been suggested by the appellant to overcome objections to the proposal. Conditions to control the hours and extent of use, surfacing of the parking areas, the retractable height and colour of the columns and the operation of the floodlighting are reasonable and necessary to protect the living conditions of local residents. I have worded these conditions to accord with the advice given in Circular 11/95: *The Use of Conditions in Planning Permissions*.

M J Whitehead

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The floodlighting hereby permitted shall not be used outside the hours of 1500 to 2130 on any day and no more than 4 persons shall use each of the courts that are floodlit at any one time between the hours of 1900 and 2130.
- 3) The floodlighting hereby permitted shall not be brought into use until the driveway and parking areas have been resurfaced in accordance with details to be submitted to and approved in writing by the local planning authority, and the surfacing of those areas shall be retained as such thereafter.
- 4) The floodlighting shall only be used for courts 5 and 6 and no other courts or areas of land within the tennis club shall be used for tennis when they are floodlit.
- 5) At all times when the floodlights hereby permitted are not illuminated the lights and columns shall be retracted to their minimum height, not exceeding 3.8m above the surface level of the tennis court to which they relate.
- 6) A scheme for operating the floodlighting and the telescopic columns shall be submitted to and approved in writing by the local planning authority before the use hereby permitted begins. The scheme shall include details of the method of operation. The floodlighting and telescopic columns shall be operated in accordance with the scheme thereafter.
- 7) No development shall take place until details of the colour of the telescopic columns hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.