

Location **The Avenue Tennis Club The Avenue London N3 2LE**

Reference: **18/4916/S73** Received: 8th August 2018
Accepted: 8th August 2018

Ward: Finchley Church End Expiry 3rd October 2018

Applicant: Patricia Moore

Proposal: Variation of condition 3 (Floodlight times) pursuant to planning permission 16/0006/RCU dated 14/04/2016 for 'Installation of 12 floodlights to existing tennis courts (retrospective application)'. Amendment to include extension of hours of use of floodlights to 10pm on weekdays [AMENDED DESCRIPTION]

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: TC1-PP3 Rev C [as annotated in red showing courts 1 and 2], High Output Environmental Sports Luminaire, Lo-line EC Lighting Column, Site Location Plan with levels, emails from the applicant dated 25 and 26 October 2018

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The floodlights hereby permitted shall not be in use before 9:00 or after 22:00 between Monday to Friday and before 9:00 or after 20:00 on Saturday and Sundays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

Officer's Assessment

1. Site Description

The application site is a tennis club located on The Avenue in Finchley Church End.

The club is accessed via a pedestrian walkway located just off Sylvan Avenue.

2. Site History

Reference: 16/6509/FUL

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 30 June 2017

Description: The installation of floodlighting to one existing tennis court [AMENDED DESCRIPTION]

Reference: 16/0006/RCU

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 14 April 2016

Description: Installation of 12 floodlights to existing tennis courts (retrospective application)

Reference: F/04562/14

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Refused

Decision Date: 02 February 2015

Description: Submission of details of Condition 4 (Photometric Certificate) pursuant to planning permission F/00532/12 dated 12.11.2012

Reference: F/02582/14

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved

Decision Date: 10 June 2014

Description: Submission of details for condition 3 (Levels) pursuant to planning permission F/004535/13 dated 26/03/2013.

Reference: F/00435/13

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 14 March 2013

Description: Variation of condition 1 (Plans) and condition 4 (Fencing) for "Construction of a new junior tennis court and fence enclosure following the reduction of levels to the rear of the site" pursuant to planning permission F/01866/12 dated 10/7/12. Variation include layout and fencing details.

Reference: F/00532/12

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 12 November 2012

Description: Installation of 12 floodlights to existing tennis courts and a new children's court and fence enclosure following the reduction of levels to the rear of the site.

Reference: F/01866/12

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 10 July 2012

Description: Construction of a new junior tennis court and fence enclosure following the reduction of levels to the rear of the site.

Reference: F/04857/11

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved

Decision Date: 26 January 2012

Description: Submission of details for condition 3 (Materials) pursuant to planning permission F/04618/09 dated 16/2/10.

Reference: F/04618/09

Address: Tennis Club, The Avenue, London, N3 2LE

Decision: Approved subject to conditions

Decision Date: 16 February 2010

Description: Erection of new single storey building to replace existing tennis clubhouse. Installation of 12 floodlights to existing tennis courts.

3. Proposal

The applicant seeks to vary condition 3 (Floodlight hours of use) pursuant to planning permission 16/0006/RCU dated 14/04/2016 for 'Installation of 12 floodlights to existing tennis courts (retrospective application)'.

The applicant proposes to extend the hours of use of floodlights from 21:00pm to 22:00pm on weekday evenings.

The applicant states in an email dated 26 October 2018 that during the summer months, league matches can go on until 21:30-21:50 pm latest. The reason for the extension of the lighting times under this application is to complete the league matches in the darker months where there may be time over-runs.

4. Public Consultation

A site notice was erected 16 August 2016.

Consultation letters were sent to 50 neighbouring properties.

5 responses have been received, comprising 6 signatures of objection.

The objections received can be summarised as follows:

- The club has no direct vehicular access. This results in a great many vehicle turning movements in Sylvan Avenue, which is a quiet residential cul-de-sac. There is sometimes obstructive parking.
- The level of activity is, at times, already unsuitable for this location. A particular problem is that users are sometimes noisy when leaving in the late evening, with raised voices and slamming of car doors.
- Other residents have also reiterated concerns with parking and noise levels from comings and goings

- We have noticed a high volume of rubbish generated sometimes which exceeds the capacity of the clubs one wheelie bin, leading to surplus rubbish being left on the road which is totally unacceptable.
- Residents from No. 2 to 20 Sylvan Avenue were not consulted by the local planning authority.
- The tennis club have previously ignored planning conditions restricting hours of use, and exceeded these times

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 24th July 2018. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The London Plan is currently under review. Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the adopted London Plan

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01

Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM04 states that development proposals for lighting schemes should not have a demonstrably harmful impact on residential amenity or biodiversity.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)
Sustainable Design and Construction SPD (adopted October 2016)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the variation would represent a 'minor material amendment'
- Whether harm would be caused to the amenities of neighbouring occupiers

5.3 Assessment of proposals

Preliminary matters:

The Planning Practice Guidance states that an application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Assessment:

The site, as existing, is served by three main tennis courts, as well as a smaller, junior tennis court.

Currently floodlighting serves all three main courts; two courts (western court and centre court) which were consented floodlighting under planning reference 16/0006/RCU, dated 14 April 2016, and the third court (eastern) was consented floodlighting under planning reference 16/6509/FUL, dated 30 June 2017.

The planning application 16/0006/RCU, dated 14 April 2016 granted consent for floodlighting on the two courts (western and centre court, courts 1 and 2), subject to conditions.

Condition 3 of this consent read: "The floodlights hereby permitted shall not be in use before 9:00 or after 21:00 between Monday to Friday and before 9:00 or after 20:00 on Saturday and Sundays."

The reason for this condition was to safeguard the amenities of occupiers of adjoining residential properties.

The applicant seeks to vary these times.

Originally the applicant requested that the hours be extended to 22:00 pm between Monday to Friday and 21:00 pm on Saturdays and Sundays.

The Environmental Health officer at the local authority raised concern to the extension of time on weekends. As such, the applicant has agreed to seek consent for an extension to 22:00pm between Monday and Friday only. The operation times will remain the same as consented on the weekends (i.e. until 20:00pm.)

Therefore the main consideration of this application is whether an extension of hours of use of courts 1 and 2 by one hour on weekdays, until 22:00pm, would cause unacceptable harm to the amenities of adjoining residents.

Impact of lighting:

The applicant has stated in an email dated 25 October 2018 that:

"I confirm that the lighting was installed in accordance with the specification contained in the consented scheme. I can also confirm that our installed lighting illuminance test which was submitted in support of our scheme for the third court indicated that the actual lux levels realised were in fact lower than those specified."

It is also noted that the application for the third court (reference 16/6509/FUL, dated 30 June 2017) included the designed and actual scheme for courts 1 and 2, which was found acceptable by the local authority.

Impact of coming and goings, and noise and disturbance:

The purpose of the proposed extension of hours of use for the floodlighting is to complete league matches.

The applicant has stated in an email dated 26 October 2018 that in the main there are no spectators at the league matches and there are never any children. On occasions the club may have the odd coach or non-playing team captain come to spectate. The winter league comprises 8 players on two courts. This is contrasted to summer league where there are 12 players on three courts.

The applicant advises that the format of the fixture is that the play is followed by a match supper that is hosted in the club house. This therefore results in a staggered departure from the club as some players leave after the food and others stay to clear up.

The extension to the hours of use of the floodlighting would therefore not alter the number of players at the club; it would only enable the club to complete all matches in the evening. The departure times and rates would therefore remain consistent with the summer months.

For these reasons it is not considered that the additional hour would cause an undue level of noise and disturbance to neighbouring residents.

Furthermore, the Environmental Health officer has confirmed there is no history of residents complaints arising from the use of the site.

Notwithstanding the above the applicant has agreed in writing to commit to increasing awareness with members and users about reducing noise when leaving the club in the evenings.

Impact on highways:

It is noted that the Controlled Parking Zone on Sylvan Avenue and Lichfield Grove operates Monday to Friday 14.00pm to 15.00 pm. Apart from these times parking is not restricted during the remainder of the day, or evening.

Site observations by the planning officer on Monday 29 October 2018 between the times of 18:30 pm and 18:45 pm (before a league match) showed available parking in the bays and yellow lines on Sylvan Avenue and Lichfield Grove.

As abovementioned there is no increase in number of players in the winter months compared to summer months. The additional hour of floodlighting would therefore not result in an unacceptable impact on the local highways network or parking.

Impact on protected species:

The application site does not fall within a Site of Metropolitan or Local Importance for Nature Conservation, a Site of Specific Interest or a local nature reserve.

It is noted that under the original permission (reference 16/0006/RCU dated 14/04/2016) matters were raised with bats at Avenue House, which is approximately 100 metres from the application site. However, it is not considered an additional one hour of floodlighting would give rise to demonstrable harm to biodiversity and protected species considering the existing circumstances.

Summary:

In conclusion, the scale and nature of the proposed variation would not result in a development that is substantially different from the one which has been approved.

The local planning authority are satisfied an extension of hours of use by one hour on the weekday evenings, until 22:00pm, on courts 1 and 2 only, would not cause undue harm to the amenities of neighbouring residents.

5.4 Response to Public Consultation

- The club has no direct vehicular access. This results in a great many vehicle turning movements in Sylvan Avenue, which is a quiet residential cul-de-sac. There is sometimes obstructive parking. The level of activity is, at times, already unsuitable for this location. A particular problem is that users are sometimes noisy when leaving in the late evening, with raised voices and slamming of car doors.

Obstructive parking is not something which can be controlled by the local planning authority or through planning conditions.

In regards to noise, as assessed above, the use of the floodlighting does not represent an increase of users/players compared to the summer months. The extension of the use of the floodlights for an additional hour would therefore not result in undue noise and disturbance.

The applicant has agreed in writing to commit to increasing awareness with members and users about reducing noise when leaving the club in the evenings.

- We have also noticed a high volume of rubbish generated sometimes which exceeds the capacity of the clubs one wheelie bin, leading to surplus rubbish being left on the road which is totally unacceptable.

On a site visit the Planning Officer observed an area dedicated to refuse within the site, next to the clubhouse. No dumping or surplus rubbish outside the site (related to the club) was observed at the time of the site visit.

If in the event this does happen, residents are recommended to contact the Council's waste collection service at csi@barnet.gov.uk or 020 8359 5051.

Considering the proposal is for extended hours of use for floodlighting, it is not considered that conditions regarding refuse is relevant to the development being permitted. It would therefore not meet the 6 tests for planning conditions set out in Paragraph 206 of the National Planning Policy Framework (2012).

- Residents from No. 2 to 20 Sylvan Avenue were not consulted.

Those residential properties which directly abut the site have been consulted via neighbour notification letter as part of this application.

For this type of development, the statutory publicity requirements are: website and a site notice or neighbour notification letter.

Under this particular application, the local planning authority have advertised the application on the website, have erected a site notice and have sent notification letters to those properties which are directly abutting the site. Statutory publicity requirements have therefore been met.

- The tennis club have previously ignored the conditions restricting hours of use, and exceeded these times

Any non-compliance with conditions would represent a breach of planning control.

In the event that the applicant breaches planning conditions, residents are advised to contact the Planning Enforcement department on 020 8359 3000 or planning.enforcement@barnet.gov.uk

There is no record of previous enforcement investigations into a breach of hours of use conditions at this club.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the scale and nature of the proposed variation would not result in a development that is substantially different from the one which has been approved.

The local planning authority are satisfied an extension of hours of use by one hour on the weekday evenings, until 22:00pm, on courts 1 and 2 only, would not cause undue harm to the amenities of neighbouring residents.

