

<b>Item No.</b> 7.3	<b>Classification:</b> OPEN	<b>Date:</b> 4 September 2019	<b>Meeting Name:</b> Planning Sub-Committee B
<b>Report title:</b>	<b>Development Management planning application:</b> Application 19/AP/1573 for: S.73 Vary/remove conditions/minor alterations  <b>Address:</b> OLD COLLEGE LAWN TENNIS AND CROQUET CLUB, 10 GALLERY ROAD, LONDON, SE21 7AB  <b>Proposal:</b> Variation of condition 2 (approved plans) pursuant to planning permission 12/AP/1573 for: Relocation of 4 floodlighting posts around tennis courts 4 and 5 and use of floodlighting for courts 1-5 between the hours of 08:00 to 21:30 Monday to Saturday and for courts 1, 2 and 3 between the hours of 08:00 to 20:30 on Sunday. The Variation is for an increase in height by 0.5m of floodlighting posts around tennis courts 1,2,3,4 & 5. The existing floodlights would be replaced with LED luminaires, with associated new hoods.		
<b>Ward(s) or groups affected:</b>	Dulwich Village		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 19/06/2019		<b>Application Expiry Date</b> 14/08/2019	
<b>Earliest Decision Date</b> 12/07/2019			

## RECOMMENDATION

1. It is recommended planning permission is granted.

## BACKGROUND INFORMATION

### Site location and description

2. The site refers to five tennis courts located at the junction of Gallery Road and Lovers Walk. The surrounding area is predominately undeveloped Metropolitan Open Land, though there are a number of low density residential units to the east of the application site.
3. The site has the following designations:
  - Metropolitan Open Land
  - Dulwich Village Conservation Area
  - Green Chain park (Dulwich Picture Gallery)
  - Air Quality Management Area.

### Details of proposal

4. The proposal seeks to vary condition 2 (approved plans) of planning permission 12/AP/1573. The applicant is seeking increase the overall height of the floodlights by 50cm and to install replacement LED lighting.

## Planning history

5. 03/AP/1473 Application type: Full Planning Application (FUL)  
The erection of nine 6.1m high floodlights to serve two tennis courts.  
Decision date 13/11/2003 16:52:41 Decision: Grant (GRA)
- 06/AP/0392 Application type: Full Planning Application (FUL)  
Variation of condition 2 of planning consent 03AP1473 to extend the floodlight time by one hour to 9pm on courts 4 and 5 on Monday to Saturday  
Decision date 11/09/2006 Decision: Granted (GRA)
- 09/AP/1372 Application type: Full Planning Application (FUL)  
To provide floodlighting to Court no.3 with 3no. new lighting posts; repositioning of 3no. existing posts next to Court no2; repositioning of 2no lighting posts to Court no1; relocation of gate and new gate in wire mesh fencing.  
Decision date 10/09/2009 Decision: Granted (GRA)
- 11/AP/0815 Application type: Full Planning Application (FUL)  
Replacement of the existing pair of timber gates for vehicle access with a pair of wrought iron gates for vehicle access and a wrought iron pedestrian access gate.  
Decision date 09/06/2011 Decision: Granted (GRA)
- 12/AP/1573 Application type: Full Planning Application (FUL)  
Relocation of 4 floodlighting posts around tennis courts 4 and 5 and use of floodlighting for courts 1-5 between the hours of 08:00 to 21:30 Monday to Saturday and for courts 1, 2 and 3 between the hours of 08:00 to 20:30 on Sunday.  
Decision date 23/07/2012 Decision: Granted (GRA)
- 17/AP/4258 Application type: Full Planning Application (FUL)  
Installation of LED floodlights to courts nos.6 and 7 for use Monday to Saturday 8:00 to 21:00. Extension of use of existing floodlights on courts nos. 4 and 5 on Sunday 8:00 to 20:30.  
Decision date 12/03/2018 Decision: Granted (GRA)

## Planning history of adjoining sites

6. None of relevance to this application.

## KEY ISSUES FOR CONSIDERATION

### Summary of main issues

7. The main issues to be considered in respect of this application are:
- Principle of development
  - Impact of proposed development on amenity of adjoining occupiers and surrounding area
  - Transport issues
  - Design issues
  - Impact on character and setting of a listed building and/or conservation area
  - Ecology issues
  - Other matters

### Adopted planning policy

#### National Planning Policy Framework (NPPF)

8. The revised National Planning Policy Framework ('NPPF') was published in February 2019 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.

9. Paragraph 215 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.
10. Chapter 11 Making effective use of land  
Chapter 12 Achieving well-designed places  
Chapter 16 Conserving and enhancing the historic environment

#### London Plan 2016

11. The London Plan is the regional planning framework and was adopted in 2016. The relevant policies of the London Plan 2016 are:

Policy 7.17 - Metropolitan Open Land  
Policy 7.4 - Local Character  
Policy 7.6 - Architecture

#### Core Strategy 2011

12. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the Core Strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the Core Strategy 2011 are:

Strategic Policy 12 - Design and conservation  
Strategic Policy 13 - High Environmental Standards

#### Southwark Plan 2007 (saved policies)

13. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

Policy 3.2 - Protection of amenity  
Policy 3.12 - Quality in design  
Policy 3.13 - Urban design  
Policy 3.25 - Metropolitan Open Land  
Policy 3.28 - Biodiversity  
Policy 5.2 - transport impacts

14. Dulwich SPD 2013

#### **Consultation responses**

15. Nine comments have been received in support of this application, with no objections.
16. The comments in support have supported the improved quality of the grounds, and the positive environmental effects of the LED lights.

#### **Principle of development**

17. Policy 7.17 of the London Plan requires:

*The strongest protection should be given to London's Metropolitan Open Land and*

*inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL. This policy goes on to establish "open air facilities, especially for leisure, recreation, sport, the arts and cultural activities, which serve either the whole or significant parts of London" as one of the criteria for boroughs to meet when designating MOL.*

18. Furthermore, saved policy 3.25 of the Southwark Plan 2007 states development within metropolitan open land will only be permitted for the following purposes:
- i) Agriculture and forestry; or*
  - ii) Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL; or*
  - iii) Extension of or alteration to an existing dwelling, providing that it does not result in disproportionate additions over and above the size of the original building; or*
  - iv) Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.*
19. The alterations to the existing floodlighting should be considered as essential facilities for sports and outdoor recreation and would therefore fall under criterion ii) of Saved policy 3.25. In addition, the proposed alterations to the existing floodlight arrangement are modest in scale, and would not have any significant effect on the overall openness of the MOL.
20. In summary, the proposal would be acceptable in principle, subject to further analysis against the factors set out below.

### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

#### Light spill

21. The light spill diagram supplied as part of this application indicates that the illumination levels from the proposed LED lighting would drop to below 1 lux before reaching the nearest residential windows.
22. Guidance from the Institution of Lighting Professionals advises that in suburban contexts such as the application site and surrounding area, light intrusion levels below 10 lux before a curfew are acceptable. With this in mind, the proposed illumination levels would not have an unacceptable impact on residential occupiers' amenity.

#### Noise

23. The proposal has not requested any amendment to the hours of operation of the lights, therefore there would not be a risk of unacceptable noise stemming from late night use of the courts.

#### **Transport issues**

24. As above, the proposal would not alter the hours of use of the grounds, and would not result in a significant increase in overall use. Therefore, there would not be any further strain on parking or transport demand in the area.

### **Design issues**

25. The proposal would modestly increase the height of the existing floodlights, while maintaining their general appearance. Thus, the design implications are negligible when compared with the existing arrangements, and the proposal is acceptable in these terms.

### **Impact on character and setting of a listed building and/or conservation area**

26. As above, the aesthetic impact of the proposal compared with the existing arrangement would be negligible and therefore the character and setting of the conservation area would be preserved.

### **Ecology issues**

27. As the hours of operation of the lights are not proposed to change, there would be no additional impact on wildlife in the area. This has been confirmed by the council's ecology officer.

### **Other matters**

28. It is noted that the proposed LED lighting would require less energy than the existing arrangement, which is a positive from an environmental perspective and welcomed.

### **Conclusion on planning issues**

29. The proposal is an acceptable development within the context of MOL, and would preserve the character of the surrounding conservation area. Furthermore, there would be no adverse effects on neighbouring amenity or local wildlife, and the proposal would be a net environmental positive. It is therefore recommended that planning permission is granted.
30. The Dulwich SPD seeks to provide sport and leisure opportunities, while protecting open space. Based on the analysis above, the proposal would accord with this aim.

### **Consultations**

31. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### **Community impact statement / Equalities Assessment**

32. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:

The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act

The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic

- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

33. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
34. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights
35. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.

#### **Human rights implications**

36. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
37. This application has the legitimate aim of providing a variation to a condition of a previously granted planning permission. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Site history file: TP/2083-E Application file: 19/AP/1573 Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 0207 525 5840 Council website: www.southwark.gov.uk

#### **APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Glenn Ruane, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	24 July 2019	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	No	No
Strategic Director, Environment and Social Regeneration	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		21 August 2019

# APPENDIX 1

## Consultation undertaken

**Site notice date:** 27/06/2019

**Press notice date:** 27/06/2019

**Case officer site visit date:** n/a

**Neighbour consultation letters sent:** 26/06/2019

### Internal services consulted:

Ecology Officer  
Environmental Protection Team Formal Consultation [Noise / Air Quality / Land Contamination / Ventilation]

### Statutory and non-statutory organisations consulted:

Sport England

### Neighbour and local groups consulted:

7 College Gardens London SE21 7BE

6 College Gardens London SE21 7BE  
5 College Gardens London SE21 7BE  
10 Gallery Road London SE21 7AB  
9 College Gardens London SE21 7BE  
8 College Gardens London SE21 7BE  
11 College Gardens London SE21 7BE  
10 College Gardens London SE21 7BE  
13 College Gardens London SE21 7BE  
4 College Gardens London SE21 7BE

3 College Gardens London SE21 7BE  
12 College Gardens London SE21 7BE  
72 Thurlow Hill London SE21 8JN  
43 Kennoldes, Croxted Road London SE21 8SS  
444 Lordship Lane London SE22 8NE  
Flat 14a Raisbeck Court, 28 Rosendale Road London SE21 8DR  
20 Frankfurt Road London SE24 9NY  
138 Turney Road Dulwich SE21 7JJ  
86 Camberwell Grove London SE5 8RF  
Ground Floor Flat 92 Kent House Rd BR3 1JJ  
2a Panmure Road London SE26 6NA

**Re-consultation:** n/a

## APPENDIX 2

### Consultation responses received

#### Internal services

None

#### Statutory and non-statutory organisations

None

#### Neighbours and local groups

Flat 14a Raisbeck Court, 28 Rosendale Road London SE21 8DR  
Ground Floor Flat 92 Kent House Rd BR3 1JJ  
138 Turney Road Dulwich SE21 7JJ  
2a Panmure Road London SE26 6NA  
20 Frankfurt Road London SE24 9NY  
43 Kennoldes, Croxted Road London SE21 8SS  
444 Lordship Lane London SE22 8NE  
72 Thurlow Hill London SE21 8JN  
86 Camberwell Grove London SE5 8RF