

<u>No:</u>	BH2024/00798	<u>Ward:</u>	Westdene & Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Tennis Courts Dyke Road Park Dyke Road Hove		
<u>Proposal:</u>	Erection of 10no 8 metre high lighting columns with 10no floodlight illuminaires to 3no existing tennis courts.		
<u>Officer:</u>	Steven Dover, tel: 01273 291380	<u>Valid Date:</u>	22.04.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	17.06.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	13.11.2024
Agent:	Pentangle Design Group Suite 1 21 Bancroft Hitchin SG5 1JW		
Applicant:	Dyke Park Tennis Club Dyke Park Tennis Club Dyke Road Park Dyke Road Hove BN3 6NF		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

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

Plan Type	Reference	Version	Date Received
Location Plan	01		27 March 2024
Block Plan	02	C	11 September 2024
Proposed Drawing	DPTC E1		11 October 2024
Proposed Drawing	03	A	11 September 2024
Proposed Drawing	04	A	11 September 2024
Report/Statement	DYKE PARK TENNIS CLUB 400 LUX LED LIGHTING DESIGN		22 July 2024
Detail	LIGHTING DETAILS		22 July 2024
Detail	OPTIVISION GEN3_5 FAMILY DATASHEET		22 July 2024
Detail	OPTIVISION LOUVRES		22 July 2024
Report/Statement	PRELIMINARY ECOLOGICAL APPRAISAL	COYNE ENVIRONMENTAL	2 July 2024
Proposed Drawing	DPTC E2		11 October 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The floodlighting hereby approved shall only be in use between the hours of 07:00 and 21:00 daily.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.
4. The floodlighting units hereby approved shall be installed in accordance with the specification provided within the "DYKE PARK TENNIS CLUB 400 LUX LED LIGHTING DESIGN" document by 'Highlights Flooding Ltd' ref: Courts 1-3 received 22nd July 2024 and retained as such thereafter. At no time and under no circumstances shall the light from the floodlights hereby approved exceed a level of 2 lux vertical illuminance into the habitable room windows of adjacent residential properties.
Reason: To safeguard the amenities of occupiers of adjoining residential properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.
5. All ecological measures and works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Coyne Environmental, February 2024, received 02/07/2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and as required by paragraphs 180 and 186 of the National Planning Policy Framework 2023, Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, Policy CP10 of the Brighton and Hove City Plan Part One and Policy DM37 of the City Plan Part Two.
6. The proposed planting scheme detailed in the Preliminary Ecological Appraisal (Coyne Environmental, February 2024, received 02/07/2024) shall be carried out in the first planting and seeding season following the first use of the floodlights hereby permitted or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Biodiversity Net Gain:
Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the legislation.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be Brighton & Hove City Council.

3. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

2. SITE LOCATION

- 2.1. The application relates to six tennis courts which are situated towards the north-eastern corner of the Locally Listed Dyke Road Park.
- 2.2. In addition to being within the Locally Listed park, the site is located approximately 45m to the west of the Grade II Listed Booth Museum of Natural History, which is on the opposite side of Dyke Road. The site also lies within a Nature Improvement Area (N.I.A.), and an Open Space Area so policies CP10 and CP16 apply respectively.

3. RELEVANT HISTORY

None

4. APPLICATION DESCRIPTION

- 4.1. The application seeks approval for the erection of ten (10) floodlighting columns of 8 metres in height around the perimeter of the southern three tennis courts so that half of the existing six courts will have the capacity to be lit.
- 4.2. Since submission of the initial application, additional information and amended plans has been submitted to enable full assessment of the ecological impacts by the Ecological Officer and changes made in response to their comments, with an increase in the amount of lighting columns to 10 from 8 (but reductions in light spillage), and additions to biodiversity onsite proposed by the applicant. Due to increase from 8 to 10 lighting columns the application and plans have been fully readvertised and reconsulted with residents and consultees.

5. REPRESENTATIONS

Original Scheme: 8 Columns

- 5.1. **Objections** from **thirteen (13)** individuals have been received raising the following issues:
 - Adverse impact on listed building
 - Adversely affects Conservation Area
 - Detrimental effect on property value
 - Restriction of view
 - Additional traffic
 - Inappropriate height of development
 - Overdevelopment
 - Overshadowing
 - Noise
 - Tennis is not an entitlement
 - Dyke Road is UNESCO World Heritage Site [officer clarification: it is not].
 - Biodiversity impacts
 - Ecological harm - bats, birds, badgers, insects
 - Too close to boundary
 - Poor design
 - Light pollution
 - Site location plan omitted Park Lodge to the north
 - No public consultation held
 - Lights and tennis should stop at 9pm latest
- 5.2. **Support** from **forty One (41)** individuals has been received raising the following issues:
 - Will increase time the courts can be used
 - Improve mental and physical health of community
 - More options to enable play for adults and children
 - Improve access to participation in sport
 - Community involvement/participation would increase
 - Good design
 - Residential amenity improves

- The council has supported lights at other tennis clubs recently (The Pavilion and Avenue Tennis Club)
- Safer for walking in the area during evenings
- Increase revenue and viability of the club
- Development would improve the neighbourhood

5.3. A letter of **support** has also been received from the **Lawn Tennis Association** (LTA) on the grounds that the addition of floodlights will significantly enhance the development of the sport in the local area and provide increased access to the local community noting “The current demand for the sport indicates that there is need for increased provision. The additional playing hours created by the new facilities would allow an increased number of people from the local community to enjoy the game of Tennis in line with the LTA’s Strategy.”

5.4. A **Comment** from **one (1)** individual was received, raising the following issues:

- See benefit to users of courts
- Light pollution must be taken seriously and with proper design can be mitigated

Revised Scheme: 10 Columns

5.5. **Objections** from **two (2)** individuals have been received raising the following issues:

- Noise
- Ecological harm - bats, birds, badgers, insects
- Light Pollution
- Lights and tennis should stop at 9pm latest

5.6. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

6.1. **Environmental Health:** No objection

The amended plans and report demonstrate that the proposed lighting columns will not result in light spillage that would affect the nearest residents if the lighting is positioned and angled as shown. Subject to proposed hours of use from 7am to 9pm.

6.2. **Heritage:** No objection (Verbal Comments)

No impacts on the intactness or integrity of the locally listed park from the proposed lighting. Slim poles and height acceptable as optimum to minimise light spill outside site and amount of lamps.

6.3. No objection as no significant harm identified. Would recommend a matt black paint finish.

- 6.4. **Sustainable Transport:** No objection subject to conditions (Verbal Comments)

Acceptable subject to the acceptable illumination levels. The proposed light columns do not obstruct visibility, and are located on private land.

External:

- 6.5. **County Ecologist:**

No objection subject to conditions

The summary details on statutory and non-statutory designated sites remains valid. The previous conclusion remains, i.e. the proposed development is considered unlikely to have any significant direct or indirect impacts on any designated sites or semi-natural habitats.

- 6.6. The design of the lighting has been amended to reduce impacts on Bats and the changes are supported. The site is unlikely to support any other protected species. Should protected species be encountered during development, all works should stop immediately and advice should be sought on how to proceed from a suitably qualified ecologist.
- 6.7. Biodiversity enhancements have been proposed and these are supported.
- 6.8. Conditions requested in respect of compliance with the submitted Preliminary Ecological Appraisal (PEA) and lighting reports to ensure impacts and mitigations assessed are implemented.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development
CP9 Sustainable transport

CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM33	Safe, sustainable and active travel
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to visual impacts, including on heritage assets, the effect on neighbouring residential amenity (specifically in relation to light and noise pollution), nature conservation, transport implications and the benefit of the facilities both to the club and the community.

Principle of development

- 9.2. Policy CP17 of the City Plan Part One (CPP1) states that new sports services, facilities and spaces (including extensions to existing provision) will be encouraged especially those that meet identified needs. All new provision should meet quality standards, optimise their accessibility and affordability to all users, including the local community and visitors.
- 9.3. In this instance the proposal would enhance existing sports and recreation facilities for the benefit of members of the tennis club and the wider community.
- 9.4. The floodlighting is proposed on three of the club's six courts and would operate, as needed, from 7am at the earliest to 9pm at the latest. The proposal would enhance the existing facilities and enable tennis to be played in the morning and evening when natural lighting is not sufficient during autumn and winter, by people who may not be able to play during the day, such as daytime workers and school children.

- 9.5. The proposal meets the requirements of policy CP17 in that it provides improved sporting facilities close to the community and has good pedestrian and cycle links. The scheme is considered acceptable in terms of the impact on the amenity of adjacent residential properties and the impact on the natural environment (as outlined below).

Design, Appearance and Heritage impacts:

- 9.6. As set out above, in addition to the site being located within the Locally Listed park, the site is located approximately 45m to the west of the Grade II Listed Booth Museum of Natural History, which is on the opposite side of Dyke Road.
- 9.7. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.8. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses should be given “considerable importance and weight”.
- 9.9. The floodlight columns are of slim design and would not look out of place within the existing courts or the wider park. The proposed material would be die-cast aluminium in a marine grade powder-coated green finish, which is considered acceptable as this would match the existing fencing to the site, and blend better with the vegetated backdrop of trees and hedges, as opposed to the black finish suggested by Heritage Officers. They would be partially screened from view by trees from the main body of the park to the southwest and from Dyke Road. There would be no impact on the settings of the listed buildings to the east as they would be separated from them by Dyke Road and its existing foliage, street furniture and lighting. It is considered that the proposed lighting columns would cause no harm to the Locally Listed park. The Council's Heritage Officer has no objections to the scheme.
- 9.10. The design and appearance of the floodlights is therefore considered acceptable, and not to be visually intrusive or detrimental to the character of the area.

Amenity Impacts:

- 9.11. Policy DM20 (Protection of Amenity) of City Plan Part Two states that planning permission for development will not be granted where it would cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.
- 9.12. Policy DM40 (Protection of the Environment and Health - Pollution and Nuisance) of City Plan Part Two states that proposals for floodlighting will be required to keep to the minimum necessary level of light intensity and to an appropriate number, height, design and size of structures and fittings necessary to minimise light pollution and harm to amenity.

- 9.13. The dwellings in closest proximity to the development are on the opposite side of Dyke Road at South Lodge to the east (circa 45m to front elevations from proposed lighting) and Park Lodge to the north (circa 73m to elevations from the proposed lighting). The nearest residential properties therefore have significant separation from the proposed lighting, with existing foliage also providing further screening. These properties are also already affected by street lighting and car headlights.
- 9.14. Concerns have been raised by surrounding residents that the proposed development could affect residential amenity with regard to light being emitted from the proposed floodlights and noise from the additional hours of operation. The applicant has proposed to limit the hours of use of the floodlights to the following periods only as required:
- Monday to Sunday: 07:00 to 21:00.
- 9.15. These hours are considered acceptable and will be secured via a condition, should the application be approved.

Light Spill:

- 9.16. As noted above, the site of this application is in close proximity to residential properties and some rooms have a direct line of sight to the tennis courts that are proposed to be floodlit. Therefore, the proposed installation of 10 floodlights could have some adverse impact upon residents of nearby properties.
- 9.17. Information has been submitted in the form of a Lighting Design Statement to demonstrate that the proposed floodlighting would not have a negative impact on neighbouring amenity by reason of light pollution. Lighting would be directional onto the tennis courts and the lamps would be fitted with internal louvre plates to mitigate against light spill into surrounding properties. Rear louvre plates would also assist in reducing impact of glare (visibility of the light source) to neighbouring properties. A condition is recommended to secure the particular design being proposed and to ensure that the lighting elements and any reflectors are not visible from neighbouring property.
- 9.18. Light spill from the development would be limited to 0.24 lux at the closest façade of the surrounding properties, against a maximum recommended target of between 1 and 5 lux (depending on time), for a rural location as recommended by 'Institute of Lighting Professionals, Guidance Notes on the reduction of Obtrusive Light'. For a suburban location between 2 and 10 lux is considered acceptable. The lower levels are
- 9.19. Skyglow would be negligible as the upward light ration (ULR) of light produced is assessed as 0% for the proposed design. This against a maximum recommendation of 2.5% for rural locations.
- 9.20. For reference, between 0.5 and 1 lux is around the same as that emitted by a full moon.
- 9.21. Subject to compliance with the details submitted within the lighting specification, including the installation of louvres, the development would not give rise to

significant harm to occupiers of surrounding residential properties in terms of light pollution, such to warrant refusal. The Council's Environmental Health Officer has assessed the submitted information and has no objections to the application subject to usage as proposed by the applicant and lighting assessment by condition.

- 9.22. On this basis, the impact of the new floodlights in terms of light spill to neighbouring residents is considered to be acceptable, subject to conditions restricting the hours of use and full compliance with the submitted details.

Noise:

- 9.23. There may be some additional noise and disturbance resulting from people using the affected courts over longer hours than is currently the case, however given the numbers and hours involved this is not considered to be unacceptable or to warrant refusal of the application. Hours of use of the new floodlights would be secured by condition which is considered adequate safeguard for local residents against late-night noise.
- 9.24. An informative is recommended to ensure that the applicant is aware that whilst the requisite planning permission may be granted, this does not preclude the Council's Environmental Health team from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received. Both light and noise disturbance can be considered as a statutory nuisance under the Environmental Protection Act 1990.
- 9.25. The additional activity generated from greater use of the courts is not considered to cause an unacceptable nuisance, given the limited increase in hours involved and the central location.

Ecology

- 9.26. Policy CP10 of the Brighton & Hove City Plan Part One seeks to conserve existing biodiversity, protecting it from the negative indirect effects of development, including noise and light pollution.
- 9.27. Artificial light can negatively impact bats; therefore, information has been submitted to enable assessment of the potential impacts of the proposed development on bats, and to inform appropriate mitigation, compensation and enhancement.
- 9.28. Since submission of the application, the plans have been amended to take account of comments from Ecological Officers to mitigate the impacts to protected species, particularly bats. The amendments to increase the number of columns from 8 to 10 has at the same time provided a design that would reduce the degree of light spill and total light emitted outside of the site, and therefore lowered the potential impacts on bats and foraging activities. The information now provided is satisfactory and the County Ecologist has confirmed that the proposed development is unlikely to have an impact on protected species or habitats, subject to compliance with the proposed lighting scheme and the recommendations in the supplied Preliminary Ecological Appraisal (PEA). These measures can be secured via condition.

- 9.29. In addition, the applicant is proposing biodiversity enhancements onsite which comprise the planting of five new native trees (three hornbeam and two wild cherry); planting of two areas of herbs suitable to support bees and butterflies; and the provision of two insect hotels. These are supported as is the proposed scheme from an ecological perspective.

Sustainable Transport:

- 9.30. Given the nature of the proposals and similarity to the existing situation, potentially extending playing time at half of the existing tennis courts, by means of additional floodlighting, is likely to lead to a small uplift in overall trip generation, however the Council's Highways team raises no objection in terms of impact on highway capacity or road safety. Given the above conclusions regarding light spill, there are no concerns regarding light being spilt onto the nearby carriageway.

Biodiversity Net Gain

- 9.31. This scheme was considered exempt from the need to secure mandatory biodiversity net gain (BNG) under Schedule 7A of the Town and Country Planning Act 1990 because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.
- 9.32. In addition, it was submitted to the LPA prior to the date on which BNG was mandatory for minor sites.

Conclusion

- 9.33. The revised development is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the amenities of local residents, subject to conditions securing the measures identified in the PEA for mitigation of ecological impacts, and biodiversity improvements are provided. It is also considered beneficial to physical and mental health in terms of providing additional opportunities for the playing of tennis. For the foregoing reasons the proposal is considered to be in accordance with policies CP12, CP15 and CP18 of the Brighton and Hove City Plan Part One, and DM18, DM20, DM28, DM29, DM37 and DM40 of the City Plan Part Two.

10. EQUALITIES

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 10.3. The proposal does not impact on the existing access arrangements to the site or the courts, but through increased playing hours, has the potential to broaden opportunities for the playing of tennis to those with protected characteristics who cannot playing during the day.