

<b><u>No:</u></b>	<b>BH2020/00171</b>	<b><u>Ward:</u></b>	<b>Queen's Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Queens Park Tennis Club Tennis Pavilion Queens Park East Drive Brighton BN2 0BQ</b>		
<b><u>Proposal:</u></b>	<b>Erection of 10no lighting columns with LED luminaires to illuminate courts 1-4.</b>		
<b><u>Officer:</u></b>	Nicola Van Wunnik, tel: 294251	<b><u>Valid Date:</u></b>	31.01.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	27.03.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Jacob Chadwick Architects 49 Richmond Street Brighton BN2 9PD		
<b><u>Applicant:</u></b>	Queens Park Tennis Club Tennis Pavilion Queens Park East Drive Brighton BN2 0BQ		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	0024/15	B	31 January 2020
Report/Statement	Ecological Walkover Survey		17 January 2020
Report/Statement	Lighting Assessment		17 January 2020
Location Plan	0024/14	A	31 January 2020

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 10 lighting columns and 12 lamps hereby approved shall be installed in such a manner as to ensure that light sources and reflectors are not directly visible from the habitable room windows of any property directly abutting the site. Any method or equipment for shielding the light sources proposed shall be subject to approval and testing on site and written confirmation of acceptability by the Local Planning Authority before the floodlights are first brought into use.

There shall be no subsequent variation of the lights without the written approval of the Local Planning Authority.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan.

4. At no time and under no circumstances shall the light from the floodlights into the habitable room windows of adjacent buildings exceed a level of 2 lux vertical illuminance.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan.
5. The tennis courts shall only be used for the playing of tennis between the hours of 8am and 10pm on any day including Bank and Public Holidays and shall not be used at any other time for any other purpose.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan.
6. All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Walkover Survey report by PJC Consultancy submitted on the 17th January 2020.  
**Reason:** To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and to provide a net gain for biodiversity as required by paragraphs 170 and 175 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, and Policy CP10 of CPP1.
7. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural construction method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.  
**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.
8. The lights shall only be illuminated between the hours of 8am and 10pm on any day including Bank and Public Holidays.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan.
9. Prior to the first use of the lighting hereby approved a scheme to enhance the nature conservation interest of the site, including details of the location and number of bat, bird and bee boxes has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first use of the lighting hereby approved and thereafter retained.

**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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. 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 provisions of the Environmental Protection Act 1990, should any complaints be received.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The site is situated on the western side of East Drive towards the north-eastern boundary of the grade II listed Queen's Park which is registered for its special historic interest under the Historic Buildings and Ancient Monuments Act 1953. The site is located in the Queen's Park conservation area.
- 2.2. The site has a total of six tennis courts and a single storey pavilion building. Planning permission is sought for the erection of ten lighting columns to courts 1 to 4, located to the north of the Clock Tower, with two further courts located to the south.

## **3. RELEVANT HISTORY**

- 3.1. **BH2018/03690** - Removal of existing upstand and section of railings, excavation and landscaping to create a new wheelchair access ramp to tennis pavilion from East Drive. Creation of new sloping access path from pavilion to tennis courts. Approved 23/08/2019
- 3.2. **BH2018/01683** - Erection of a single storey side extension to provide new store room. Approved 21/08/2018

## **4. REPRESENTATIONS**

- 4.1. **Twelve (12)** letters have been received objecting to the proposed development for the following reasons:
  - The lights would disturb the local wildlife, particularly the nocturnal habits of birds, insects and animals that live in the park will be substantial.
  - The LED lighting will be unsightly and radiate light into living space and an unwelcome intrusion

- Purely for financial gain and profit of the tennis club with little regard to the conservation area.
- Industrial style would not be in keeping with the area.
- The height of the lights would dominate the skyline and would be visible from many areas.
- Detrimental effect on property value.
- Not in keeping with the conservation area
- Light pollution
- Noise will be heard by residents
- Increased light and activity will change the night-time character of the neighbourhood from purely residential
- Increased traffic late at night
- Hours should be restricted to 9pm
- Concerns over hours of illumination
- Posts 4.3m higher than the fence and dominate the skyline
- Damage to the local environmental aesthetic

4.2. **Thirty eight (38)** letters have been received supporting the proposed development for the following reasons:

- The lights will extend the playing period for this useful public amenity.
- The lights will reduce the local park crime rate and anti-social behaviour around the clubhouse.
- The tennis club is a great asset to community fitness, health and wellbeing - even better if accessible in the dark, winter evenings.
- Fantastic community asset and the light will let more people use these courts.
- Lights will offer year round after school tennis and help generate much needed income for the tennis club.
- Great for promoting tennis.
- The LED lights will ensure that there is no light pollution outside the playing areas of the courts.
- Less pressure on peak times, notably weekend mornings and afternoons.
- Lights are sympathetic and would cause little or no light pollution.
- Lights will make regular tennis more accessible for those community members who struggle to play in daylight hours.
- Safer place for everyone.
- School tennis clubs and lessons can take place throughout the winter evenings.
- Being able to play tennis during the darker months will support people's physical and mental health and wellbeing.
- Increased sense of safety in the park
- Enable the continued regeneration and use of this space for the Brighton Community.
- Positive contribution to the community as it promotes access to an opportunity for exercise and the health of residents in Brighton.
- Important with reduced funding to public facilities that initiatives such as this are supported so that the community benefits as a whole.
- Enhance the impact the tennis club has on the area.

- Energise and bring prestige to the club and area.
  - Floodlights have been thoughtfully planned, sensitive to both the environment and neighbours
- 4.3. **One (1)** letter has been received commenting on the proposed development for the following reasons:
- On the whole support the development
  - Some concerns about the lighting
  - Screening or baffles should be considered to limit direct glare
  - Noise could be an issue of the lights are kept on late into the evenings
- 4.4. **Councillor Clare Rainey** supports the proposed development. A copy of her representation is attached to this report.

## 5. CONSULTATIONS

### 5.1. Arboriculture

No objection subject to the recommended condition.

### 5.2. City Parks:

No comments received

### 5.3. Conservation Advisory Group:

The group supports approval.

### 5.4. Ecology:

In summary, provided the recommended mitigation measures are implemented, the proposed development can be supported from an ecological perspective. Bird, bat and bee bricks/boxes should be provided to ensure a net gain for biodiversity.

### 5.5. Environmental Health:

The proposed lighting design while maintaining the minimum lighting requirement for tennis to be played under floodlights, should not result in light spillage that exceeds the standard prescribed in the guidance notes. In fact, the modelling predicts that it will fall well below.

### 5.6. Heritage:

The development complies with the requirements of HE3, HE6 and HE11 and would not cause any harm to the surrounding conservation area, the setting of the listed buildings within the park or to the character and setting of the Queen's Park and is therefore supported.

### 5.7. Sport England:

No comments received

### 5.8. Sports Facilities:

No comments received

- 5.9. **Sussex Gardens Trust:**  
When it is fully dark, no one is experiencing the layout or design of this grade II listed park. However, the lights will be incredibly bright in the context of normal street lighting and will to some degree affect the appreciation of the park just before and just after sunset. So, the Trust expresses reservations regarding the intensity of these lights and their potentially harmful impact on the appreciation and enjoyment of the park's wildlife (especially birdsong), architectural and historic features at dusk. We ask that you take this into account when determining the application and seek mitigation measures where appropriate.
- 5.10. **Sustainable Transport Verbal Comment:**  
No objection as the proposal will not have a significant negative impact on the highway.
- 5.11. **The Gardens Trust:**  
No comments received
- 5.12. **Tourism and Leisure**  
No comments received

## 6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - 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).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when

the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which is currently underway to 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP15	Heritage
CP17	Sports provision
CP18	Healthy city

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External Lighting
QD26	Floodlighting
QD27	Protection of amenity
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE11	Historic parks and gardens

Supplementary Planning Documents:

SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the development; impact on the character and setting of the adjacent listed buildings, historic park and garden, and conservation area; impact on ecology; and impact on neighbouring amenity.
- 8.2. When considering whether to grant planning permission for works within in a conservation area or to a listed building, the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".

**Principle of Development:**

- 8.3. Policy CP17 of the Brighton and Hove City Plan Part One seeks the enhancement and more effective use of existing indoor and outdoor sports facilities and spaces. It supports the provision of new sports services, facilities and spaces (including extensions to existing provision) especially those that meet identified needs. It states that new provision should meet quality standards, optimise their accessibility and affordability to all users, and proposals should seek to improve the variety of provision in the city.
- 8.4. The proposal would enhance the sports and recreation facilities for the benefit of members of the tennis club and wider community, as the courts can also be used by non-members. It is considered acceptable in principle as it would accord with the general policy approach set out in policy CP17, subject to the other factors discussed below.

**Impact on Heritage Assets:**

- 8.5. The tennis club has six courts in total. Courts 5 and 6 are situated in a separate area of the park to the south.
- 8.6. The proposal is to mount 12no. LED-type luminaires at the top of 10no. 8m high lighting columns on courts 1 to 4. The lights would be located around the edge of the tennis courts, adjacent to the existing 3.5m tall open fencing which encloses the courts. The columns would be mid-grey zinc in colour.
- 8.7. The tennis club is located within the grade II listed Queen's Park and Queen's Park conservation area, and there are listed buildings close to the site. The proposal will therefore need to consider the impact on the setting of the listed buildings and appearance of the conservation area and the character of the historic park.
- 8.8. With regard to the listed buildings, the impact of the lights would be minimal on the setting of the Clock Tower as the Quiet Garden would provide screening with its established trees and shrubs. Similarly, the impact of the proposed lights on the Memorial Drinking Fountain would be minimal as it is located lower, separated by the bowling green and screened by the Wildlife Garden. The impact on the Royal Spa, Egremont and Park Street Gates would be negligible due to the distance from the proposed development, and the significant amount of vegetation between.
- 8.9. With regard to the impact on the conservation area and historic park, it is acknowledged that the proposed lights would be visible when viewed from East Drive and from within the park itself. However given the mature trees around courts 1-4, the floodlights would not stand out as visually intrusive and would be appropriate in terms of visual appearance. The Council's Heritage Officer considers that the proposed floodlights would not any cause harm to the surrounding conservation area, the setting of the listed buildings within the park or to the character and setting of the Queens's Park.



- 8.10. On balance the proposal would enhance the existing facilities of the tennis club and is not considered to harm the character and appearance of the site, the setting of the listed buildings, the historic park or wider conservation area.

**Impact on Amenity:**

- 8.11. The proposed lights would enable the tennis club to operate outside of daylight hours. The applicant has stated in the Design and Access Statement that the lights would only be in operation when there is a confirmed booking, and would not operate after 10pm.
- 8.12. The main issue in amenity terms is light spillage from the proposed lights in hours of darkness because the tennis club is located in close proximity to residential properties.
- 8.13. The Lighting Report accompanying the application shows that the direct light spillage at the nearest residential areas along East Drive would be minimal. The lights nearest East Drive (lighting column 2, 4, 6, 8 & 10) would direct light towards the tennis courts and away from the dwellings, and the lights on the opposite side of the tennis courts (lighting column 1, 3, 5, 7 & 9) would be in excess of 43m away from the front elevations of the residential properties on East Drive.
- 8.14. The Council's Environmental Health officer has reviewed the proposal and has no objections to the scheme, subject to the floodlights only being use between the hours of 8am and 10pm, is recommended to be secured by condition. They have also advised that due to the proximity of residential properties, it is appropriate to adopt the strict standard of a maximum allowable luminance value of 2 lux (vertical illuminance).
- 8.15. Overall, it is not considered that the proposal will cause demonstrable harm to neighbouring amenity through increased light pollution.

**Ecology:**

- 8.16. The proposed site is not designated for its nature conservation interest, but Stevenson Road Quarry Local Wildlife Site lies c. 148m to the south and Whitehawk/Race Hill Local Nature Reserve lies c. 477m to the east. Given the nature, scale and location of the proposed development, there are unlikely to be any impacts on any designated sites.
- 8.17. A Preliminary Ecological Appraisal has been submitted with the application and this has been reviewed by the County Ecologist. The County Ecologist has confirmed that provided the recommended mitigation measures are implemented, including the installation of bird, bat and bee boxes, the proposed development can be supported from an ecological perspective. It is recommended that these details are secured by condition.

**Arboriculture:**

- 8.18. There is mature vegetation surrounding the tennis courts. Although the proposed works will be contained within the tennis courts, it is recommended that the protection of the existing trees is secured by condition.

## **9. EQUALITIES**

- 9.1. The installation of a wheelchair access ramp was approved under application BH2018/03690 to provide improved accessibility to the tennis club.