

Development Management Sub-Committee Report

Wednesday 09 August 2023

**Application for Planning Permission
Drummond Tennis Club, 1 East Scotland Street Lane, Edinburgh**

Proposal: Erection of six masts 8m high to provide floodlighting, to the playing surface only, of the tennis courts.

**Item – Committee Decision
Application Number – 23/00838/FUL
Ward – B11 - City Centre**

Reasons for Referral to Committee

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-committee as it has received more than six material letters of support and the recommendation is to refuse planning permission.

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposal is acceptable with regards to section 64 of the Planning (Listed Buildings and Conservation Areas (Scotland) Act 1999. However, the proposal is ultimately unacceptable as it is contrary to the relevant policies within the Edinburgh Local Development Plan, as the proposed floodlights would have an adverse impact on neighbouring residential amenity due to the glare from the lights entering into neighbouring residential premises. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is Drummond Tennis Club located on East Scotland Street Lane. The site is surrounded by overlooking residential tenement properties on all sides.

The site is located within the New Town Conservation Area.

Description Of The Proposal

The application proposes the erection of six masts 8m high to provide floodlighting, to the playing surface only, of the tennis courts.

Supporting Information

- Visualisations;
- Photographs;
- Supporting statement;
- Light spillage assessment;
- Lighting design details;
- Optivision LED lighting details.

Relevant Site History

22/03708/FUL
Drummond Tennis Club
1 East Scotland Street Lane
Edinburgh
EH3 6PR
Erection of masts to provide floodlighting.
withdrawn
20 September 2022

Other Relevant Site History

No other relevant site planning history.

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 13 March 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 17 March 2023

Site Notices Date(s): 14 March 2023

Number of Contributors: 120

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area?

The following HES guidance is relevant in the determination of this application:

- *Managing Change - Conservation Areas*

The New Town Conservation Area Character Appraisal states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

Within the context of the tennis club, the floodlights would have a slim profile and would not constitute an over-dominant or unsympathetic feature within the surrounding streetscape. By virtue of their size, location and suitable materials, the works would not have a detrimental impact on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal has regard to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- NPF4 Policy 1 Global Climate and Nature Crises
- NPF4 Policy 4 Natural Places
- NPF4 Policy 7 Historic Assets and Places
- NPF4 Policy 13 Sustainable Transport
- NPF4 Policy 14 Design, Quality and Place
- NPF4 Policy 21 Play, Recreation and Sport
- NPF4 Policy 23 Health and Safety
- LDP Policy Hou 7

The non-statutory 'Listed Buildings and Conservation Area' guidance is a material consideration that is relevant when considering the above policies.

Conservation Area

The impact on the character and appearance of the conservation area has been addressed in section a) above. It is concluded that the proposal will not adversely impact on the character or appearance of the conservation area and therefore complies with NPF4 Policy 7.

World Heritage Site

The proposal will not affect the World Heritage Site or the reason for its inscription.

The proposal complies with NPF4 Policy 7.

Design

Whilst the club is situated within a residential area, within the context of the tennis club, the floodlights would have a slim profile and would not constitute an over-dominant or unsympathetic feature within the surrounding streetscape. However, for reasons which are fully assessed below, the design of the proposal would be detrimental to the amenity of the surrounding area.

The proposal complies with NPF4 Policy 14.

Climate/Nature Conservation

Concerns have been raised in respect of the effect of the floodlights on wildlife. Although there would be an increase in localised light levels, this has to be considered in the context of the surrounding area, which has street lights that will be on for greater periods of time than the floodlights. In these circumstances, the effect of the lighting on wildlife would not be unacceptable and would not be justification for refusing the proposal.

The floodlights would utilise energy, however, the increase in energy use would be modest. In these circumstances, if committee were minded to grant planning permission, an informative encouraging the use of solar powered lights could be included in the decision.

The proposal would comply with NPF4 Policies 1 and 4.

Increase in Traffic and Parking Issues

The proposal does not involve the expansion or enlargement of the existing tennis club and would not result in a material increase in car journeys or parking. The site is located in a city centre location in close proximity to public transport and cycle routes.

The proposal complies with NPF4 Policy 13.

Amenity

Residential tenement properties surround the application site on all sides. Several windows of these properties sit below the height of the proposed floodlights. The position of neighbouring windows and gardens, combined with their proximity to the application site, would result in the bulbs or reflected bulb light being viewed from within a number of properties. Consequently, the glare from the floodlights would have a materially detrimental effect on the amenity of neighbouring residents.

Environmental Protection has been consulted and does not support the application due to the light spillage, glare and associated operational noise concerns resulting from increased use of the premises late into the evening during the autumn and winter months.

It should be noted that there are no restrictions on the hours of operation of the club, and whilst the provision of floodlighting may facilitate an increased usage of the courts, it would not constitute a material change of use of the land. This would not be a reason for refusal.

The proposal does not comply with LDP Policy Hou 7.

Health and Wellbeing

The provision of floodlighting would allow the courts to be used for longer periods of time and would have a positive effect on health and well being. The proposal would also encourage opportunities for play, recreation and sport. However the adverse impact on residential amenity as detailed above outweighs the potential health benefits that the proposal could bring.

The proposal would comply with NPF4 Policies 21 and 23.

Conclusion in relation to the Development Plan

The proposal complies with NPF4 Policies 1, 4, 7, 13, 14, 21 and 23. However, the proposal is contrary to LDP Policy Hou 7, as it would have a materially detrimental effect on the amenity of neighbouring residents.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A total of 120 representations have been received including 96 objections, 20 support comments and 4 general comments. It should be noted that two of the support comments contained no considerations.

A summary of the representations is provided below:

Material Comments - Objections

- Negative impact on neighbouring residential amenity; this has been addressed above in section b).
- Light spillage into neighbouring residential properties; this has been addressed above in section b)
- Impact of masts on setting of Conservation area and setting of Listed Buildings; this has been addressed above in section a).
- Negative impact of floodlights on ecology and biodiversity; this has been addressed above in section b).
- Increase in traffic and parking issues; this has been addressed in above in section b)
- Negative impact on World Heritage Site; this has been addressed above in section b).
- Extension of opening hours of tennis club; this has been addressed above in section b) and;
- Disregard for climate crisis, net zero agenda and environmental protection; this has been addressed above in section b).

Non-Material Comments - Objections

- Impact on mental well being of residents; this is not covered by planning policy and is not a material planning consideration and;
- Impact on costs to the club; this is not a material planning consideration.

Material Comments - Support

- Promotes health and wellbeing; this has been addressed above in b).
- Enables better use of existing facilities; this has been addressed above in b).
- The light spillage will not compete with existing light from houses, gardens and street lights; this has been addressed above in b) and;
- The club is an important recreational resource for the local community and the proposal would allow the club to continue to grow; this has been addressed above in b).

Non-Material Comments - Support

- Club is well run by respectable and responsible people; this is not a material planning consideration.
- The club offers affordable membership rates thus promoting inclusivity; this is not a material planning consideration.
- Floodlights are a standard feature of most Scottish tennis clubs; each application is assessed on its own merits and;
- The age and profile of the users ensures that there will not be noise or nuisance; this is not a material planning consideration.

Conclusion in relation to identified material considerations

The potential benefits of the proposal do not outweigh the adverse impact on neighbouring residential amenity.

Overall conclusion

The proposal is acceptable with regards to section 64 of the Planning (Listed Buildings and Conservation Areas (Scotland) Act 1999. However, the proposal is ultimately unacceptable as it is contrary to the relevant policies within the Edinburgh Local Development Plan, as the proposed floodlights would have an adverse impact on neighbouring residential amenity due to the glare from the lights entering into neighbouring residential premises. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions

Reasons

Reason for Refusal:-

1. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as it would have an adverse impact on neighbouring residential amenity due to the glare associated with the operation of the floodlights.

Informatives

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 7 March 2023

Drawing Numbers/Scheme

01-04

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Stephanie Fraser, Assistant Planning Officer
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Summary of Consultation Responses

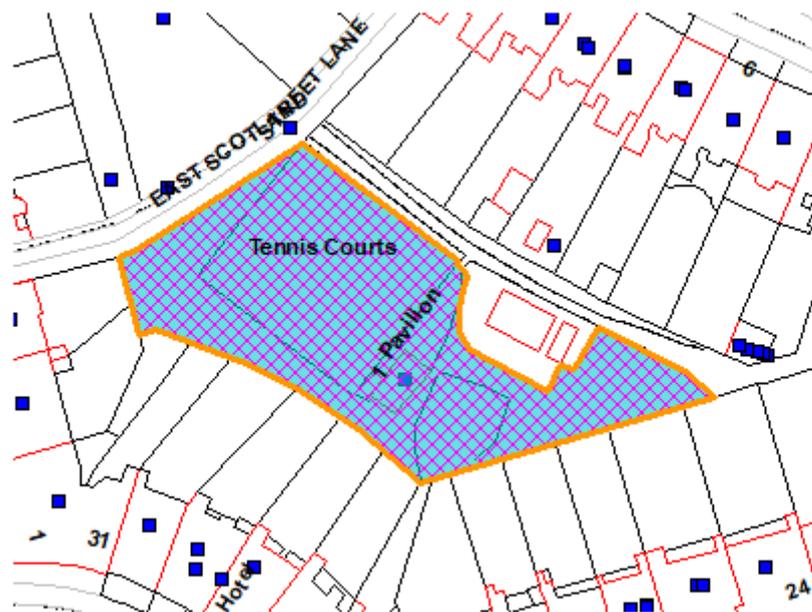
NAME: Environmental Protection

COMMENT: Due to the immediacy and height of a significant number of surrounding residential properties, Environmental Protection is concerned that light spillage, glare and noise all have the potential to impact upon residential amenity should this application be granted and recommends that the application be refused.

DATE:

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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