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| <b>Committee Date</b>                                  | 25.06.2020   |                               |
| <b>Address</b>   | Woodlands<br>Holwood Park Avenue<br>Orpington<br>BR6 8NQ   |                               |
| <b>Application Number</b>                              | 19/03797/FULL6   | <b>Officer</b> - Louisa Bruce |
| <b>Ward</b>  | Bromley Common And Keston  |                               |
| <b>Proposal</b>  | Retrospective replacement tennis court in rear garden with floodlighting, perimeter fencing and boundary planting. |                               |
| <b>Applicant</b>                                       | <b>Agent</b>   |                               |
| Mr John Ruprai   | Mr Neil Edwards  |                               |
| Woodlands, Holwood Park Avenue<br>Orpington<br>BR6 8NQ | 51 St Marys Road<br>Tonbridge<br>TN9 2LE   |                               |
| <b>Reason for referral to committee</b>                | <b>Councillor call in</b>  |                               |
|  | Call-In  | Yes                           |

|                       |                       |
|-----------------------|-----------------------|
| <b>RECOMMENDATION</b> | Application Permitted |
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| <p>KEY DESIGNATIONS</p> <p>Conservation Area: Keston Park<br/>Smoke Control SCA 14</p> |
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|-------------------------------|--|-------------------|
| <b>Representation summary</b> | Site Notice sent to agent on 25 <sup>th</sup> September 2019   |                   |
|                               | Neighbours notified on:-<br>25.09.2020 - of the original application<br>10.02.2020 - additional information/documents received<br>20.05.2020 – revised description |                   |
| Total number of responses     |  | 4                 |
| Number in support             |  | 1                 |
| Number of objections          |  | 3 (same objector) |

## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development would not result in a harmful impact on the character and appearance of the area
- The character and appearance of the Conservation Area would be preserved
- The development would not adversely affect the amenities of neighbouring residential properties

## 2 LOCATION

2.1 Woodlands is a large Georgian style property built in 2017 after the original house was granted planning permission to be demolished and rebuilt. The application site is located on the south-west side of Holwood Park Avenue at the junction with Beech Dell and within the Keston Park Conservation Area.

2.2 The area is characterised by large detached dwellinghouses of varying designs but these predominantly have pitched roofs, and traditional/arts & crafts style. Woodlands was previously a large detached house in a mock Tudor style dating back from early phase of the Holwood Park Development.

## 3 PROPOSAL

3.1 Retrospective planning permission is sought for a new tennis court located in the rear garden of the property which is enclosed by green mesh fencing and six flood lighting columns.

3.2 The new tennis court will include six flood lights and will be enclosed by open mesh green fencing. The proposal also includes boundary

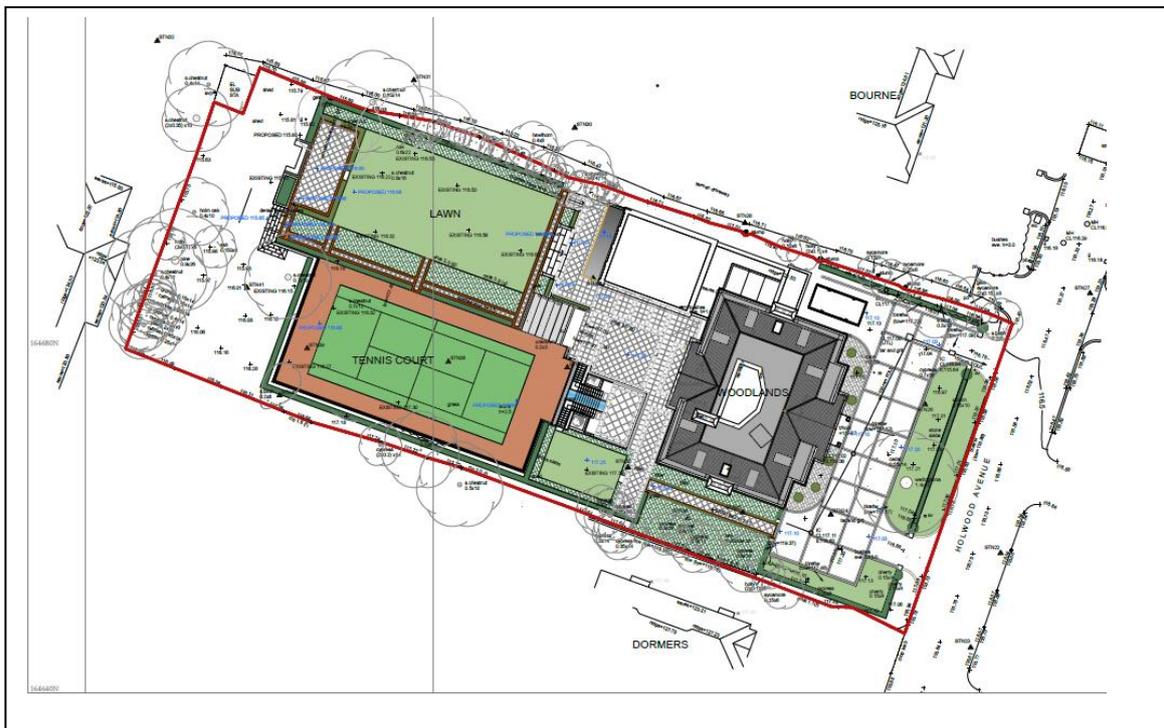
planting along the shared boundary with the neighbouring property (The Dormers).

3.3 The property had a previous tennis court located on the northern boundary which has now been relocated to the southern boundary (close to the boundary with the neighbouring property, the Dormers).

3.4 An email from the agent on 13<sup>th</sup> February 2020 confirmed that the sub-base and tarmac of the tennis court had been laid. An email from a neighbour dated 23<sup>rd</sup> March 2020 further confirmed that the tennis court had been completed, including all fencing and painted lines.

3.5 The application is accompanied by the following documents:-

- Design and Access Statement
- Lighting Assessment
- Noise Impact Assessment
- Arboricultural Method Statement
- Tree survey



## 4 RELEVANT PLANNING HISTORY

4.1 The relevant planning history relating to the application site is summarised as follows:

4.2 Under planning application reference: 19/02269/FULL1 planning permission was granted for Proposed demolition of the existing dwelling and the erection of a replacement 7 bedroom dwelling with accommodation over 2 floors and accommodation in the roofspace together with basement to substitute granted scheme DC/16/03654/FULL1.

4.3 Under application reference: 16/03654/AMD a non-material amendment application was refused for various internal changes including revisions to basement, swimming pool and relocation of en-suite bathrooms.

4.4 Under planning application reference: 16/03654/FULL1 planning permission was granted for demolition of existing dwelling and construction of a replacement two storey 7 bedroom dwelling with additional roofspace and basement accommodation, associated landscaping and parking.

4.5 Planning application reference: 15/03657/FULL1 was dismissed at appeal on the 25th April 2016.

4.6 Under planning application reference: 15/03657/FULL1 planning permission was refused for demolition of existing dwelling and erection of replacement 7 bedroom dwelling with accommodation over two floors and accommodation in the roofspace and basement. The application was refused for the following reasons:-

*The proposed development would constitute an overdevelopment of the site by reason of its bulk, height and depth which would cause harm to the character and appearance of the Keston Park Conservation Area, contrary to Policies BE1 and BE11 of the Unitary Development Plan.*

*The design of the proposed dwelling would be poor and conspicuous in the street scenes, and harmful to the character and appearance of the Keston Park Conservation Area, contrary to policies BE1 and BE11 of the Unitary Development Plan.*

4.7 Under planning application reference: 96/01160/CON planning permission was granted for demolition of existing garage/garden store and single storey rear extension. Conservation Area consent.

- 4.8 Under planning application reference: 96/01159/FUL planning permission was granted for front porch single storey side/rear extension including cellar with bin store for demolition of existing garage/garden store and single storey rear extension.
- 4.9 Under planning application reference 01/00174 planning permission was refused for a single storey detached building for use as a granny annex.
- 4.10 Under planning application reference 88/02790 planning permission was granted for single storey rear extension and pitched roof to existing single storey rear extension.
- 4.11 Under planning application reference 84/00495 planning permission was granted for two storey side extension with integral garage.
- 4.12 Under planning application reference: 84/0060/FUL planning permission was granted for single storey detached building for changing rooms and plot room detached house.

## **5 CONSULTATION SUMMARY**

### **A) Statutory**

APCA - the file was not inspected.

Conservation Officer – no objection.

Tree Officer –

The TPP and Arb Method statement are redundant if produced retrospectively. The owners and/or builders have shown disregard for trees during the various development works. The construction of the tennis court has likely been unfavourable to tree health and the trees onsite would doubtless benefit from its removal.

However, there are insufficient grounds in terms of the Arb Impact of retaining the tennis court now that it is built for the tree team to recommend that the application be refused. Furthermore, if the application is approved we can require remedial works by condition to “undo” some of the damage.

Please impose the following condition:

Within three months of this decision being issued a programme of works shall be submitted for approval to the Local Planning Authority, providing details of a scheme for the amelioration of soil conditions for trees denoted as T20, 21 and 28 in the submitted documents. Once approved, the works proposed shall then be carried out within 3 months.

Reason: To mitigate the impact of the RPA incursions on trees protected by tree preservation order resulting from construction of the tennis court and in accordance with Policies 37, 73 and 74 of the Bromley Local Plan

Environmental Health (Pollution) –

- Checking the revised plans, it looks like they may have accidentally left one of the 4m high floodlight columns in one of the drawings (see the middle drawing in 14010 – LAN-51-P3), however both sets of elevation drawings show the following new amendment: **P3 4M HIGH RETRACTABLE LIGHTING COLUMNS REMOVED 17.03.20 NCE** and the plan of the lighting has been confirmed as the 6 light side-lit configuration, a reduction of 2 lights from the original corner and centre lit configuration.
- This clarification now allows the plans to be read in conjunction with the lighting details both in the lighting report and the design and access statement, the latter of which includes the following statement: “High hedges, Deflector shields and forward throw optics would ensure there will be no material impact on adjacent properties”.
- Given that the hedge planting is to be of mature plants 2.5-3.0m tall on installation (the 2.5m tall plants are shown on a ground level more than 0.5m about tennis court level), then the floodlighting at 2.8m above tennis court level should be below the level of the dense screen planting on installation.

In light of the above, the additional clarification and updated drawings submitted in support of the application, and the commitment to ensure no material impact on residential amenity, Environmental Health now has no objection to the floodlighting aspect of this application subject to a condition being attached to ensure that the screen planting is both retained as shown in the application and the planting maintained, with any planting that fails or dies being replaced.

## **B) Local Groups**

None

## **C) Adjoining Occupiers (addressed in para 7.2, 7.3, 7.4, 7.6 and 7.7)**

### Objection

- Any further intrusion to the privacy of Dormers is unacceptable. The proposed tennis court has been planned running along the left hand side of our garden where we have a 6ft wall.
- The tennis court will be far higher than our wall and will look very unsightly from our bedroom window and from our patio area. Equally any lighting to the tennis court will cause us grave intrusion. The swimming pool complex running alongside the right hand side of the property is another massive construction. As yet there is absolutely no screening that side of Woodlands and none running along our left hand boundary. We object most strongly.
- Once again this applicant has brazenly defied the democratic planning process to undertake the significant development of a tennis court, knowing full well that he required planning permission before he could begin.
- With regards to the various reports that have recently been lodged in support of the application, the Arboricultural Method Statement and Tree Survey should be dismissed immediately as they provide no useful information and equally the builders are not even bother to following the tree protection proposals outlined in the Arboriculture Method Statement.
- The visit by Chartwell Tree Consultants Ltd was made on 14 January 2020 and by that time ALL the groundwork had already been completed and the hard surface laid. Therefore all vegetation had already been removed to facility the ground work. Additionally, the report was dated 29 January 2020 and makes no reference to the Tree Preservation Order 2685 that was placed on the property on 14 January 2020. It seems extraordinary that the TPO has not been mentioned in the report.
- The lights at either 4m or 2.8m height, and the fence only at 2.5m high, the fence CAN NOT block the light as the lights are above

the fence. Thus there will clearly be significant light emitted towards Dormers and this I find to be totally unacceptable.

- In the unfortunate situation that Bromley do decide to grant permission for this tennis court, which I don't believe they should, I would only ask that they at least accept the recommendations of RF Environmental Ltd in their Noise Impact Assessment and restrict the use of the court;

*"5.25 Use of the court should be restricted to ensure that no games are played before 08:00hrs Monday to Saturday and not before 09:00 hrs on Sundays. The use of the court should not extend beyond 21:00hrs on any day; "*

- I would also suggest that the restriction of "no games before 09:00 hrs on Sundays" be extended to include "no games before 09:00 hrs on public holidays and Bank holidays".

Following revised description

- The tennis court would create unacceptable noise and light pollution
- It would lead of an intrusion of privacy
- 70% of the total property is now subject to paving or hard surface.
- With regards to the various reports that have been lodged in support of the application, the Arboricultural Method Statement and Tree Survey provide no useful information and equally it should be noted that the builders are not even bothering to following the tree protection proposals outlined in the Arboriculture Method Statement.
- Total contempt and defiance of the democratic planning process.

Support

- My reason for supporting this application is that I have lived next door to Woodlands for 12 years and there has always been a tennis court at the property which has never caused any sound or lighting disturbance to me or my family.

## **6 POLICY AND GUIDANCE**

6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

6.3 The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

6.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.

6.5 The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.

6.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan

6.7 Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan. This affects the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

6.8 The application falls to be determined in accordance with the following policies:-

### **National Policy Framework 2019**

#### **The London Plan**

- Policy 6.13 Parking
- Policy 7.4 Local character
- Policy 7.5 Public realm
- Policy 7.6 Architecture

## **Draft London Plan**

Policy D1 London's form and characteristics

Policy D4 Delivering good design

Policy D5 Inclusive design

Bromley Local Plan (2019):

Policy 30 Parking

Policy 37 General Design of Development

Policy 41 Conservation Areas

Policy 58 Outdoor Sport, Recreation and Leisure

Policy 73 Development and Trees

Policy 77 Landscape Quality and Character

Policy 119 Noise Pollution

SPG No.1 - General Design Principles

SPG No.2 - Residential Design Guidance

Keston Park Conservation Area Guidance

## **7 ASSESSMENT**

### **Background**

7.1 Under planning application reference: DC/16/03654/FULL1 planning permission was granted for 'demolition of existing dwelling and construction of a replacement two storey 7 bedroom dwelling with additional roofspace and basement accommodation, associated landscaping and parking'.

7.1.1 Demolition of the former dwelling and construction began in December 2017. In February 2018 an application was submitted to the Council for a non-material amendment to planning application DC/16/03654/FULL1 for various internal changes including revisions to the basement, swimming pool and relocation of en-suite bathrooms. This application was refused because the changes required full planning approval. A further application (ref: 19/02269/FULL1) was granted planning permission in August 2019 for changes to the 2016 application.

7.1.2 The new tennis court was not included in the 2016 or 2019 planning applications but the property did have an existing tennis court which was located on the northern boundary of the site. It would appear from correspondence with the agent and neighbour that the new tennis court has already been built.

## **7.2 Design, Siting and Layout - Acceptable**

- 7.2.1 Policy 37 of the Local Plan requires new buildings to complement the scale, form, layout and materials of adjacent buildings and areas and seeks to protect the amenities of neighbouring properties.
- 7.2.2 The new tennis court measures approximately 30m in length x 15m in width x 3m in height. The new tennis court is located on the southern boundary approximately 13m from the rear of the house and 2m from boundary with the Dormers (next door property). The tennis court will be surrounded on all sides by open mesh fencing measuring 3m in height. The new fencing will be painted green to blend in with the backdrop of the surrounding landscaping. The accompanying Design and Access statement sets out that the applicant intends to install evergreen Taxus Baccata hedges to screen the tennis court from the neighbouring property.
- 7.2.3 The property had a previous tennis court which was situated on the northern boundary but has now been changed that it now located on the northern boundary (close to the boundary with The Dormers). Whilst it would have been beneficial for the new tennis court to be retained in the same location (on the northern boundary) to reduce the impact to the neighbour the Council considers that the design, siting and layout to be acceptable.

## **7.3 Noise - Acceptable**

- 7.3.1 A noise impact assessment was undertaken to assess the likely impact of noise on nearby noise sensitive receptors. The assessment considered changes in noise levels between the use of existing tennis court and the use of the proposed tennis court. It also considered the change in noise between existing ambient noise levels in the absence of the tennis court and the use of the new court.
- 7.3.2 Internal noise levels at the nearest noise sensitive receptors were also considered, as was the impact from impulsive noise.
- 7.3.3 The change in noise levels between the use of the two tennis courts showed that there is likely to be a negligible adverse impact at R1 – The Dormers, while at the property to the north of Woodlands, there is likely to be a negligible to minor positive impact.
- 7.3.4 The ambient noise change assessment indicated that typical activity use would lead to a negligible increase in the existing ambient levels.
- 7.3.5 An assessment of internal noise levels, generated by the use of the tennis court, has indicated that recommended guideline levels prescribed in BS8233:2014 will not be exceeded at the closest noise sensitive receptors, with windows open for ventilation during typical activities.

- 7.3.6 In addition, the impulsive noise level from the tennis balls striking the mesh fencing is predicted to not exceed the threshold at which annoyance is likely to occur.
- 7.3.7 The noise impact statement suggested that to ensure that any noise from the use of the tennis court is minimised and controlled as far as reasonably practicable, it is recommended that the use of the court is restricted to times.
- 7.3.8 The results of the noise impact assessment indicated that noise from the use of the tennis court would not cause a change in behaviour and would not lead to a change in the quality of life of nearby residents and would not therefore cause adverse noise impact or a loss of amenity.
- 7.3.9 The Council's Environmental Health Officer has not raised any objections in relation to noise.

#### **7.4 Flood lighting - Acceptable**

- 7.4.1 The application has been accompanied by a Flood Lighting Assessment. The tennis court will have a total of six floodlights surrounding the court. The court is approximately 1m below ground level. Each of the lighting columns is retractable and will measure 2.8m above the court.
- 7.4.2 The accompanying revised report (March 2020) report states that no rearward light would spill into the neighbouring garden as the solid boundary fence would block any source of light and the floodlights themselves would be below the height of the fence.
- 7.4.5 The Council's Environmental Health Officer has assessed the application and after requesting additional information from the agent raises no objection to the floodlighting subject to suitable conditions.

#### **7.5 Heritage Impact - Acceptable**

- 7.5.6 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 7.5.7 Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.
- 7.5.8 The newly built property is in a neo-georgian style. The Keston Park Conservation Area is mixed in character with a variety of architectural styles. No two houses are the same' on Holwood Park Avenue and that 'the majority

on Holwood Park Avenue have been influenced by the Arts and Crafts movement and that there are examples of neo-classical design. All houses are set in large plots with significant planting and trees creating a landscaped setting.

- 7.5.9 The Conservation Officer has been consulted about the proposed tennis court but as the new court lies in the rear garden of the property they raise no objection nor do the APCA. The tennis court is considered to have a neutral impact on the Conservation Area. Several other properties in the road have tennis courts of various sizes.

## **7.6 Impact to neighbours - Acceptable**

- 7.6.1 Policy 37 of the Bromley Local Plan seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.
- 7.6.2 The main impact of the development is to the two neighbours either side; The Dormers and Bourne.
- 7.6.3 A letter of objection has been received by the owners of The Dormers. Their main objection is that the construction of the tennis court has taken place retrospectively and without due regard for the planning process. The neighbours object to the visual impact the tennis court will have in terms of loss of privacy and overlooking when no screening has been put in place. The proposed floodlighting and the impact that this could have is also raised as an issue.
- 7.6.4 The new tennis court has already been constructed. Whilst the location of the tennis court would have caused less impact to the neighbour at The Dormers if it had been retained on the opposite boundary, in its original location, the Council cannot warrant the refusal of the application based on no objections being raised by the Environmental Health Officer. Appropriate conditions have been put forward to ensure residential amenity is maintained through the introduction of play court hours and the operation of the flood lighting. The accompanying plans show a hedge is to be planted close to the boundary and the Council have attached a condition to ensure this hedging is maintained.
- 7.6.5 A letter of support has also been received from the owners of Bourne who raise no objections to the proposal on the basis that the property previously had a tennis court and did not cause any noise or disturbance.
- 7.6.6 On balance the tennis court, whilst built retrospectively, is considered to respect the privacy between neighbours to not warrant the refusal of the application.

## **7.7 Trees - Acceptable**

- 7.7.1 Policy 73 of the Local Plan states development will not be permitted if it will damage or lead to the loss of one or more trees in conservation area, unless:
- (i) removal of the tree/s is necessary in the interest of good arboricultural practice, or
  - (ii) the reason for the development outweighs the amenity value of the tree/s.
  - (iii) in granting permission for the development, one or more appropriate replacement trees of a native species will be sought either on or off site through the use of conditions or planning obligations.
- 7.7.2 Several trees located in the rear garden of the property are protected with TPO status. The accompanying Tree Survey outlines that no trees have been recommended for removal to facilitate the proposal.
- 7.7.3 The proposed new tennis court will result in an incursion into the Root Protection Area of the Chestnut (T20) of 45%, Yew (T21) of 25%, Chestnut (T28) of 37% and a negligible incursion the Leylandii (T33) and Laurel (T32) and therefore a low-invasive/above ground solution will be required (CORE tree root protection system etc).
- 7.7.4 Recommendations highlighted throughout the Tree Survey and Arboricultural Method Statement include protective fencing around the existing trees and works in the Root Protection Area (RPA) to be carried out by hand.
- 7.7.5 The Tree Officer has provided a consultation response stating there are insufficient grounds in terms of the Arb Impact of retaining the tennis court now that it is built for the tree team to recommend that the application be refused. If the application is to be approved then a condition is required to ensure the health of the trees going forward.

## **8 Conclusions**

- 8.8.1 It is acknowledged that the tennis court has already been built. Building a development before obtaining the necessary planning permission is never condoned; nonetheless, the Council has to make a decision with the new tennis court having been completed. Based on the evidence contained in the accompanied reports the Council's Environmental Health and Conservation Officers have raised no objections.
- 8.8.2 The design, siting and location of the tennis court is found to be satisfactory given the size of the rear garden of the property. The proposed lighting would be positioned directly around the tennis court and the design would be appropriate to the site and its function. The lighting would not be excessive in number, height or mass, and would not detract from the character and appearance of the site and its surroundings. The chain link fencing will surround the perimeter of the new tennis courts and will be similar to the fencing surrounding the existing courts of neighbouring tennis courts in the road.

8.8.3 The tennis court is considered to have a neutral impact and is therefore considered to preserve the character and appearance of the conservation area and would have no significant impact on residential or visual amenities.

8.8.4 The impact to neighbouring amenity as been shown to be minimised through the introduction of landscaping to be introduced on the boundary to screen the tennis court from view. Furthermore the floodlighting to be installed has been shown to be appropriate by the Council's Environmental Health Officer and the hours of use has been limited via condition to respect neighbouring amenity.

8.8.5 Background papers referred to during production of this report comprise all correspondence on the file ref(s) 19/03797/FULL6 and any other applications on the site set out in the Planning History section above, excluding exempt information.

**RECOMMENDATION:** Application Permitted

**Subject to the following conditions:**

- 1. Standard time limit of 3 years**
- 2. Standard compliance with approved plans**
- 3. Materials as set out in plans**
- 4. Floodlighting (hours of use)**
- 5. Tennis court (hours of use)**
- 6. Programme of works regarding impact to trees**
- 7. Hedge maintenance and retention**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**