

# Planning Committee

Application Address	West Hants Lawn Tennis Club, Roslin Road South, Bournemouth, BH3 7EF
Proposal	Replacement of a single tennis court with 2 new padel tennis courts with associated screens, fencing and floodlights.
Application Number	7-2024-5036-BF
Applicant	The West Hants Club
Agent	Pure Town Planning
Ward and Ward Member(s)	Talbot & Branksome Woods  Cllr Broadhead Cllr Gillett Cllr Rampton
Report Status	Public
Meeting Date	18/07/2024
<b>Summary of Recommendation</b>	<b>Grant in accordance with the details set out below for the reasons as set out in the report</b>
Reason for Referral to Planning Committee	<p>Call-in request from Cllr Rampton:</p> <ul style="list-style-type: none"> <li>The noise from 2 additional Padel courts would have a further and unacceptable adverse affect on the lives of residents who are already having to keep double glazed.</li> <li>Noise, impact on residential properties, Loss of amenity, contrary to CS38 and CS41 of the Bournemouth Local Plan.</li> <li>Noise from the thwacking of padel bats as well as shouting of players. floodlights until 10pm, unacceptable intrusion into the lives of residents and their children.</li> </ul> <p>More than 20 letters of objection have been received.</p>
Case Officer	Piotr Kulik
Is the proposal EIA Development?	No

## **Update to report**

- a. The application was deferred from the 18 July 2024 meeting of the Western Planning Committee in order for a site visit to take place by Members.
- b. There are no material changes to the proposals and therefore the original committee report is included in full below with amendments to Condition 4 (tree protection) as set out in the Addendum to the 18 July meeting.

## **Description of Proposal**

1. This application seeks full planning approval for the proposed replacement of an existing single tennis court with two padel tennis courts. The proposed works include associated screens, fencing and floodlights.
2. The padel courts would be located centrally within the Club grounds. The padel court enclosures would be 20 metres long by 10 metres wide and they would follow the orientation of the existing tennis courts. The wire mesh fencing used to form the respective padel courts would be 4 metres high at each end and 3 metres high along the side of the respective courts. The fencing would have a very similar appearance to the existing dark green mesh fencing surrounding the existing clay tennis court.

## **Description of Site and Surroundings**

3. The application site is located within the West Hants Lawn Tennis Club, which focuses on racket sports. The site is surrounded by hedge boundaries to the north and south. Vehicle and pedestrian access is provided from Roslin Road South with parking on the northern and northeastern part of the site (adjacent to the application site). The immediate setting is predominantly early 20<sup>th</sup> century suburban area consisting of generous detached houses set in spacious plots.
4. The Club is located within the designated Meyrick Park and Talbot Woods Conservation Area. Consent was approved in 2015 for the erection of two buildings to form a multi-use gym, classroom and groundsman's store, two padel ball courts with fence enclosures and a second air dome cover to two existing tennis courts. A subsequent application for a minor material amendment provided an additional padel ball court on the site of an existing tennis court adjacent to Elgin Road. For clarification, the operation of the sports club pre-dates the designation of the area as a conservation area, and also the majority of the surrounding residential properties.

## **Relevant Planning History:**

5. 30/05/2022: Removal of existing padel court to be replaced with tennis court, removal of western spectator stand, installation of three new padel courts with associated screens, acoustic fencing and pole mounted floodlights. Refused (7-2022-5036-BE)
  6. 23/02/2021: Alterations and extension at 1st floor level to extend Gym, relocate an existing Padel Court and formation of a new Padel Court with associated fencing and flood lighting, erection of acoustic fencing along Elgin Road, relocate approved store and toilet and formation of additional parking spaces. Withdrawn (7-2019-5036-BD)
  7. 26/09/2019: Minor material amendment to vary condition no. 2 of application no. 7-2017-5036-AZ to vary the plans to replace groundsman cabin with modular buildings and erect new WC/store. Original proposal: Erection of two buildings to form multi-use gym, classroom and groundsman's store, two tennis courts with fence enclosures and air dome cover to two existing tennis courts (September to March inclusive). Granted (7-2019-5036-BB)
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8. 13/02/2019: Minor material amendment to vary condition no. 2 of application no. 7-2017-5036-AZ to vary the plans to provide a store and WC, storage containers, and additional tennis courts in place of gym, classroom and store. Withdrawn (7-2018-5036-BA)
9. 22/12/2017: Erection of two buildings to form multi-use gym, classroom and groundsman's store, two tennis courts with fence enclosures and air dome cover to two existing tennis courts (September to March inclusive) - Minor material amendment to vary condition no.1 of application No. 7-2015-5036-AX to amend the plans to include a further sports court. Granted (7-2017-5036-AZ)
10. 05/05/2016: Minor material amendment to vary condition no.1 of application No. 7-2015-5036-AX to amend the plans. Granted (7-2016-5036-AY)
11. 14/12/2015: Erection of two buildings to form multi-use gym, classroom and groundsman's store, two tennis courts with fence enclosures and air dome cover to two existing tennis courts (September to March inclusive). Granted (7-2015-5036-AX)

### **Constraints**

12. This site is located within the Meyrick Park and Talbot Woods Conservation Area.

### **Public Sector Equalities Duty**

13. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

### **Other relevant duties**

14. In accordance with regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitat Regulations), for the purposes of this application, appropriate regard has been had to the relevant Directives (as defined in the Habitats Regulations) in so far as they may be affected by the determination.
15. For the purposes of section 40 Natural Environment and Rural Communities Act 2006, in assessing this application, consideration has been given as to any appropriate action to further the "general biodiversity objective".
16. For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.
17. For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

### **Consultations**

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18. Tree Officer – Comments dated 27/06/2024:

*'I confirm that I raise no objections to a conditional approval that requires an arboricultural method statement and tree protection plan for the protection of three trees that could be affected as I consider this to be feasible and a tree planting condition for planting of two new trees of species, size and location to be agreed by the Local Planning Authority'.*

19. Ecologist – No objection subject to conditions

Comments dated 27/06/2024:

*The supplied bat report is from 2020 so is no longer valid.*

*'For application 7-2022-5036-BE DWT's response dated 28/2/ 2022 said "DWT recommend that a sensitive lighting scheme is designed in accordance with Guidance Note 08/18: Bats and artificial lighting in the UK (Bat Conservation Trust and Institute of Lighting Professionals 2018). Lighting should utilise a warm colour temperature to minimise impacts on nocturnal wildlife including bats and invertebrates and should be directed only where required, avoiding illuminating tree lines and vegetation." This means lighting to have a colour temperature of less than 2700 K.*

*In the current application the lighting has colour temperature of 4000K so not compliant with Bats and artificial lighting in the UK*

*Also, for earlier application there was representation Species Ecological Consultancy highlighting issue of bats in area.*

*No objection with condition that lighting to have colour temperature of 2700 K or less'.*

20. Wessex Water – No objection

'Foul Water Disposal

*Subject to application Wessex Water would accept the foul flows only from the proposed site into the 225mm public foul sewer.*

**Surface Water Drainage**

*Surface water must be disposed of via the SuDS Hierarchy which is subject to Building Regulations. Land drainage run-off shall not be permitted to discharge to the public sewerage system. Wessex Water will not accept surface water flows into the foul sewer, either directly or indirectly.*

*We note that your application states that surface water is to be drained via a sustainable drainage system and therefore no connection to our network is required'.*

21. Environmental Health Officer – No objection subject to conditions:

Comments dated 03/05/2024:

*'This has been a contentious application which required a rigorous appraisal of all the information submitted by both the applicant and the objectors. A number of acoustic reports were assessed and suggested improvements to the courts were communicated to the applicant and the required amendments to the scheme was agreed.*

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*This has resulted in a scheme which I believe offers the local residents an acceptable level of protection from the potential noise which may be associated with the use of the proposed 2 new Padel Tennis Courts.*

*I would however request that should you be minded to grant planning approval for this development that the following condition be attached in respect to noise.*

#### *Noise*

*The use of the 2 padel tennis courts shall not commence until the acoustic fences have been completed in accordance with the approved plans, and it has been demonstrated that the maximum noise levels at the closest noise sensitive receptors as specified in the VENTA acoustic report Reference VA3764.240419.L1 have not been exceeded.*

*A detailed scheme of noise mitigation measures (management controls) shall also be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use of the two padel tennis courts.*

*Reason: The implementation of the development without the proposed acoustic fencing and associated management controls may result in an unacceptable scheme which would be detrimental to the amenities of adjoining properties and the character of the area'.*

#### *Comments dated 27/06/2024:*

*'I have now had opportunity to consider the Sports Facility Planning and Design Limited - Outdoor Lighting design report ( P.A. 05 R1) for the above application.*

*I am satisfied with the proposed lighting strategy and note that the Illuminance (Lux) levels at the closest sensitive receptor is unlikely to create a light nuisance. It is also noted that the applicant has considered the potential for sky glow, light spill, and glare in the selection of appropriate lighting.*

*I would therefore request that should you be minded to grant planning approval for this development that a condition be attached specifying that the lighting shall be installed in accordance with the lighting strategy as outlined in appendix 2 of The Sports Facility Planning and Design Limited report'.*

#### **22. Conservation Officer – no objection.**

Heritage assets affected: Meyrick Park & Talbot Woods Conservation Area

- The area contains a number of substantial detached houses principally dating from the mid-Victorian period up to the 1930s, and the character of the area is attributed to the quantity of remaining original buildings and the spacious verdant setting of the mature trees and shrubs.
- P52 of the appraisal notes: 'The overwhelming activity in the conservation area is residential and there are only a few sites that are utilised for an alternative use. These specific sites are rendered more prominent in respect of this.....West Hants Tennis Club occupies a site of significant size and the clubhouse building together with the connecting multi-purpose indoor sports building has one of the largest building footprint within the conservation area. However, the large proportion of this site is laid to tennis courts which creates an open feel to the site amongst the housing, especially when viewed from Elgin road where the tree cover is fairly sparse or when viewing across the large club car park from Roslin Road South'.

*"The tennis club forms a distinctly open area, sitting comfortably amongst the leafy residential area. It is noted this proposal wouldn't change the sports use but merely seeks to modify the nature of the courts available, with a traditional tennis court changed to form two padel courts. The padel courts involve additional fencing and glazed screens to each end.*

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*The location of the new courts would be beyond the car park, close to the club house.*

*The padel courts should be of limited visibility from the public realm, with likely only distant views across the car park. Due to the positioning and permeability of the enclosure, the courts shouldn't be prominent to private views into the sports grounds. The enclosure of the courts would be slightly more robust than the existing, but this is an historic sports use at this site and it is positive to see the continued operation as an open sports facility.*

*Overall, it is considered that modification to the nature of the tennis courts would retain the recreational use and openness of the site, and therefore the character of the conservation area wouldn't be harmed by the proposal."*

23. Local Highway Authority Officer – No objection

*'These proposals do not result in an increase in land area associated with outdoor sport and recreation use and therefore result in no material net gain in car and cycle parking demand. Consequently, the continued use of the existing access and parking arrangements is acceptable.'*

## **Representations**

24. Site notices were erected on 19 January 2024 with an expiry date of 9 February 2024. Following the submission of amended plans and additional information, new site notices were erected on 10 May 2024, with an expiry date of 20 May 2024.

25. 53 letters of objection were received. The grounds for objection are:

- Unacceptable noise nuisance caused by the proposed padel courts and associated activities;
- Adverse noise impact on local residents;
- The loss of the tennis court;
- The padel courts are not pleasant to view;
- Padel tennis courts are a frequent source of complaint from local communities;
- Padel tennis courts are not in keeping with the character of the area;
- The provided Noise Report is not demonstrating real noise levels;
- Impact on the Club's soft landscaping;
- Excessive opening hours
- Padel courts are more noisy than lawn tennis;
- The benefits to the local community and neighbourhood would be non-existent. Only private members would benefit from this development;
- The proposed development ignores the Conservation Area status;
- Harm to the character and tranquillity of the Conservation Area
- Development would be supportive if the courts were put under cover
- The loss of the show court, impact of child safe area, nature as well as impact on the quiet area in the clubhouse;
- The club cannot provide an all-weather solution;
- Impact on bats;

26. 70 letters in support:

- The proposed padel courts will help the community to stay fit and active;
  - There is a local need for padel courts;
  - Padel courts bring together community spirit and appeals to players from a wide range of ages, backgrounds and abilities;
  - Padel courts would enhance the existing club;
  - The proposed development would promote health and well-being;
  - Improvement of the mental and physical health of people in the community;
  - The existing Club is an acceptable location for padel courts;
  - Great asset for the community;
  - The central location of the proposed padel courts within the Club grounds would minimise any potential noise disturbance;
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- The improved sport facilities will help to create Bournemouth more attractive to visitors;
- A good balance between the needs of residents and the provision of courts for members;
- The location is justified in the noise impact assessment which demonstrates low noise levels relative to the existing background noise, at the adjacent property receptors.

27. The following issues were raised which are not material to the merits of the application;

- Lack of transparency and consultation with members within the Club;
- The title deeds there are restrictive covenants which only allow 'lawn tennis, badminton, bowls and croquet';
- Existing property's devaluation.

### **Key Issue(s)**

28. The key issue(s) involved with this proposal are:

- Principle of the proposed works
- Impact on character and appearance of the conservation area;
- Impact on residential living conditions;
- Other matters

29. These issues will be considered along with other matters relevant to this proposal below.

### **Policy context**

30. Local documents:

#### **Core Strategy (2012)**

Policy CS16 Parking Standards

Policy CS31 – Recreation, Play and Sports

Policy CS35 Nature and Geological Conservation Interests

Policy CS38 – Minimising Pollution

Policy CS39 – Designated Heritage Assets

Policy CS41 – Quality Design

#### **District Wide Local Plan (2002)**

Policy 4.25 – Landscaping

Policy 4.4 – Development in Conservation Area

Policy 7.10 – Recreation, Community Facilities, and Open Space

#### **Supplementary Planning Documents:**

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31. **National Planning Policy Framework (2023)**

Including in particular the following:

Section 2 – Achieving Sustainable Development  
Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

.....

For decision-taking this means:

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

The following chapters of the NPPF are also relevant to this proposal:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.”

Chapter 2 – Achieving sustainable development

Chapter 8 – Promoting healthy and safe communities

Chapter 16 - Conserving and enhancing the historic environment

## **Planning Assessment**

### **Principle of the proposed works**

- 32. Policy CS31 of the Core Strategy (2012) states that *‘The Council, through its own strategies and work programmes, and working with developers and other partners will seek to ensure that the quality, quantity, type and location of open space, sports grounds and play grounds meet demand for recreation and sporting activities.’* The proposal seeks to enhance an existing sports facility. The site is located within a sustainable location with local services, transport links and amenities in proximity.
- 33. This application follows most recent planning refusal for 3no. new padel courts under a planning reference 7-2022-5036-BE, which was refused for a following refusal reason:  
  
*‘It has not been demonstrated that the proposed padel ball courts, and by association, their use, would not result in a level of noise and disturbance that would be detrimental to the living conditions of the occupiers of neighbouring residential properties. The development is therefore contrary to the aims of Policies CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (2018) and the NPPF (2021)’.*
- 34. The aim of the current application is to overcome this reason for refusal. To overcome this sole reason for refusal, the new padel courts have been relocated more centrally within the Club grounds in order to increase the distance from neighbouring residents. The submitted site plan indicates the nearest residential property to either court will be 15 Roslin Road South, 51m to the north. This has been verified on the Council’s systems using Ordnance Survey based data. The application is also accompanied by the supporting noise impact assessment, which has been assessed by the Council’s Environmental Health Noise Officer.



35. The club already has one outdoor padel court. In terms of similar uses around the local authority, on 18 January 2024 the BCP Planning Committee resolved to approve three padel tennis courts with floodlights at East Dorset Tennis Club in Poole under a planning reference APP/23/00374/F subject to a legal agreement. There is already an extant approval for two courts at the East Dorset club site under app. no. APP/22/00830/F. Also, the Council is currently considering a retrospective proposal for two padel courts at David Lloyd Club, Cabot Lane, Poole under APP/24/00496/F.
36. The provision of the proposed courts would comply with the aims of Policy CS31 and is considered acceptable in principle subject to compliance with policies in the remainder of the Development Plan.

#### Impact on character and appearance of the Conservation Area

37. The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms the duty of the Local Planning Authority to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. The National Planning Policy Framework provides the overarching guidance for development and identifies a conservation area as a designated heritage asset. It is the Local Planning Authority's duty to ensure that through careful decision making, development should maintain and manage change in a way that sustains, and where appropriate, enhances its significance.
  38. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.
  39. The site occupies a large site within the conservation area and has an established historic leisure use. The Meyrick Park and Talbot Woods Conservation Area was designated on 18 October 1988. The adopted Meyrick Park and Talbot Woods Conservation Area Appraisal (CAA) identifies traditional recreational facilities such as the existing tennis club with its associated activities as one of the qualities of the Conservation Area. The West Hants Lawn Tennis Club site was developed on the site from former allotments in the early 1930s.
  40. The current application seeks to replace an existing tennis court, which is centrally located within the Club grounds. The Council's Conservation Officer raised no objection as the proposed works would retain same leisure use within the site. The existing tennis court with surrounding fencing and floodlights would be replaced with two padel courts with surrounding enclosures and floodlights. Due to the siting of the replacement court, the proposed works would not be readily visible from any public vantage point and therefore views of the proposed scheme would principally be from within the Club grounds and from the residential properties bordering the site. Therefore the proposals do not have wide-ranging visual impacts. The proposed works will be viewed in the context of the existing buildings and exterior courts and their means of enclosure within the site. In this context, the proposed courts and their enclosures are considered to form a logical part of the site's current character.
  41. The existing site boundary or the multi-purpose sporting/leisure use of the site will not be affected by the proposed padel courts and associated works. The verdant character of the site and the visual quality of the wider Meyrick Park and Talbot Woods Conservation Area will not be adversely affected by the proposed works.
  42. As noted above, the existing boundary treatment serving the Club would remain. Taking NPPF paragraphs 138 and 199 into account it is considered the proposed development would have a negligible effect on the significance of the Meyrick Park and Talbot Woods Conservation Area. The development will have limited prominence in views from the Conservation Area and would be
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a logical addition in the context of the existing sports club. As such, it can be concluded that the scheme would preserve the character or appearance of the Conservation Area and thereby complies with the statutory test.

43. Two silver birch trees are shown to be removed on the submitted plans. It is understood these were planted in 1999 are still relatively small. No arboricultural information has been submitted, however the Council's Tree Officer does not object subject to imposing a condition detailing tree protection measurements and tree planting details. Such approach is considered to be feasible and the planting of two new trees is acceptable and is not objected to by the Council's Arboriculturist.
44. The scheme results in less than substantial harm to the heritage asset. Applying the guidance in paragraph 208 of the National Planning Policy Framework (2019), this impact must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The scheme will facilitate the ongoing use of the site for leisure/sporting purposes which is considered to be its optimum use. The scheme provides public benefits in increasing recreational choice at the Club and in this case, these are considered to outweigh any harm to the heritage asset.
45. For the above reasons, it is considered that the development as proposed would not have an adverse impact on the character of the area and would not be contrary to the aims of Policies CS39 and CS41 of the Core Strategy and saved Policy 4.25 and 4.4 of the District Wide Local Plan, as well as relevant paragraphs of the NPPF.

#### Impact on residential living conditions

46. Policy CS41 outlines that *'the Council will seek to ensure that new developments, including changes of use, enhance the character, local distinctiveness, cultural identity, amenities of future occupants and neighbouring residents'*. The primary issue is potential noise disturbance from the use of the proposed courts. The use of the site for the sport does not require planning permission as it is considered to fall within the existing lawful use of the site which includes indoor and outdoor recreation. No planning conditions restricting the types of sports were imposed when the site was originally consented as a sports facility. If there are any restrictive covenants limiting the type of sports that can be undertaken at the site this is a private matter and is not material to the planning merits of the scheme. The granting of planning permission would not override any existing covenant.
  47. Paragraph 4.4. of the adopted Meyrick Park and Talbot Woods Conservation Area Appraisal states that *'the busy roads within and outside the conservation area, namely Wimborne Road, Talbot Road, Talbot Avenue, Glenferness Avenue and Wessex Way create a constant audible intrusion which is more noticeable the closer one is to either of these roads'*. The proposal is for these two new courts to be located centrally within the Club's grounds next to the Club House. Compared to the previous refusal ref. 7-2022-5036-BE, the currently proposed courts would be set further away from the Elgin Road neighbours but instead closer to the properties on Roslin Road South and parts of Dunkeld Road.
  48. The potential for noise generation comes from the use of the padel ball courts as the game can involve balls being hit off the enclosing court. Officers acknowledge that the game creates noise and also results in common instances of impulsive noise. The applicant has provided a noise assessment authored by a qualified noise consultant which concluded that with the proposed noise mitigation in place, the impact on the amenities of neighbouring residential occupiers will be acceptable. Local residents and the Branksome & Talbot Woods Residents Association provided two responses to this assessment through other qualified noise consultants, the conclusions of which were at variance to the applicants assessment. In view of the conflicting reports, the Council's Environmental Health Officer (EHO) commissioned an independent review of all information provided.
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49. The initially submitted Venta Acoustic Report was questioned by both the residents and the Council's EHO. The role of the Environmental Health Officer as the consultee is to scrutinise the submitted information and apply professional judgement to form an opinion on the likely impact of the development on local residents. It should be noted that the noise climate of the area is such that the residents cannot expect complete silence as they live beside an established sports facility where the sound scape is characterised by the noise of people playing tennis. Furthermore, if there is a change or increase in noise impacts as a result of the proposals, this does not automatically render the scheme unacceptable. It is still necessary for the Local Planning Authority to demonstrate an overriding harm from the proposal which outweighs the scheme's benefits in order to refuse the application.
  50. There were submitted acoustic reports and reviews provided by JSP Consultants on behalf of the local residents, and the submission by Ken Parke planning consultants. This report questions the Venta Report that the noise levels predicted at the receptor will be acceptable and the JSP report suggests that the noise levels have not been adequately assessed. Nevertheless, the Council's Environmental Health (EH) Team considered all the available evidence and recommended approval subject to conditions. In order to make an informed decision, the EH Team – and the Council as a whole - are entitled to rely on the professionalism of the acoustic consultant acting on behalf of the applicant that they have made a suitable assessment of the predicted noise levels of the proposed courts. The report recommends controls and provides assurances that local residents will not be significantly adversely impacted by noise impacts from the use of the courts. The challenge with any application such as this is that the likely impact of the development is based on noise 'predictions' the actual noise that the residents would be subjected to can vary with changes in seasons, wind direction or the intensity of play result in an increase or decrease in the noise levels.
  51. The EH Officer assessed any potential noise from the proposed courts to ensure that the proposed development will not result in an unacceptable change or increase in the existing noise levels adversely affecting the living conditions of residents currently adjoining an established sports facility. The EH Officer visited the existing court on a number of occasions, such visits being unannounced and found that the noise levels were subjectively no more intrusive than a normal tennis game.
  52. The agreed mitigation measurements by the Council's Noise Officer are in the form of a 4 metre high screen around the north side of the courts, wrapping around the flanking sides, as well as a 3 metre high glass screen along the west side of the western court. The proposed additional mitigation for the courts is considered to be acceptable. Also, the EHO is satisfied with the proposed location, which is seen as the most suitable for the courts as it makes use of the additional screening offered by the club house, and is a suitable separation distance from the closest residential properties. Therefore, the applicant has demonstrated that they have now adequately assessed the likely impact of the courts on local residents, and suitable controls can be implemented to prevent local residents being adversely impacted by the proposed Padel Tennis Courts. It should be that if indeed this planning application is approved and the courts are built in accordance with the plans, the Local Authority still has a duty under the Environmental Protection Act 1990 to investigate allegations of a statutory noise nuisance and that agreeing to the courts, this does not fetter the Council's ability to undertake further investigations and require further actions under this separate legislation should the Environmental Health team receive noise nuisance complaints regarding the courts.
  53. Overall, officers consider that the applicant has provided assurances to the local authority that the noise impact on residents will be acceptable. If the courts do indeed result in a noise nuisance, then there are still powers to act against a statutory noise nuisance. The Environmental Health Officer confirmed that does not have the evidence to support the allegations raised by the objectors that the courts will result in an adverse impact on local residents based on the submitted noise reports.
  54. Environmental Health have also assed the submitted Lighting Report, and confirmed that is satisfied with the proposed lighting strategy. It was confirmed that the Illuminance (Lux) levels at
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the closest sensitive receptor is unlikely to create a light nuisance. Compliance with the measurements set within the submitted *Sports Facility Planning and Design Limited* report would be conditioned. Therefore, with regards to the impact of the floodlights on neighbouring living conditions, the Environmental Health Officer has advised they are satisfied with the lighting report. There is further suggested that the use of the courts will be restricted to 08:00 – 21.00 via a planning condition.

55. Due to the distances from the adjacent residential properties to the proposed works, the physical impacts of the courts and their enclosures is considered to have an acceptable impact on the living conditions of surrounding properties in terms of their outlook and privacy and the scheme would not result in an overbearing impact.
56. Consequently, the impact on the living conditions of the surrounding residential properties has been carefully considered and the representations referring to these issues are recognised and acknowledged. However, it is considered that the scheme is acceptable and compliant with the provisions of Policy CS41 of the Core Strategy.

#### Impact on wildlife

57. Some 3<sup>rd</sup> party comments raise concerns regarding bats on site. Having examined the Dorset Environmental Records Centre (DERC) records on the Council's systems, the nearest bat record is in excess of 350m from the site. Article 12 of the European Commission's Habitats Directive (which forms part of the Conservation of Habitats and Species Regulations 2010) places a duty on governments to have in place measures that prohibit... *(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;* and *...(d) deterioration or destruction of breeding sites or resting places."*
58. In response to these concerns, the Council's Ecologist was consulted on the proposals. No objection was raised. Nonetheless, the potential for the presence of bats in the area was highlighted. Despite of a lack of a valid bat report in place, the Council's Ecologist has advised the scheme can be supported subject to conditioning the proposed floodlighting to have colour temperature of 2700 K or less.
59. With these safeguards, the scheme therefore complies with Policy CS35.

#### Other matters

60. It is noted that a number of objections have submitted queries regarding the application. The Statement of Community Involvement and the Council's website sets out that it is not possible to respond to specific points raised in representations due to the large volume of correspondence received on planning applications. Decisions are made on the basis of submitted information which is in the public domain on the Council's website.
61. Also, objectors noted that the proposed padel courts would result in loss of the existing quality tennis court, will have impact of child safe area, nature, as well as impact on the quiet area in the clubhouse. As noted already, the ecologist investigated the position and concluded that appropriate mitigation can be included with regards to protected species. Also, two replacement trees in line with the Council's Tree Officer recommendations are proposed. It has not been demonstrated that the loss of a tennis court or the child safe area breach any relevant policies in the Development Plan. Weight is given to the evident level of support for the proposals and the benefits of the scheme are considered to outweigh any impacts in this regard..
62. 3<sup>rd</sup> party responses raise concerns regarding parking provision on site. The Local Highway Authority Officer has been consulted and raised no objection to the proposed works. The proposals would not result in an increase in land area associated with outdoor sport and recreation use. Consequently, it would not result in a need to meet increased car and cycle parking demand under the Council's adopted Parking SPD. Given that and the fact that the proposed works already

replace an existing lawn tennis court, it is considered that associated traffic movements could be safely accommodated on the existing transport network and that the existing parking facilities are adequate to serve the proposed development. The scheme thereby complies with Policy CS16 and the BCP Parking Standards Supplementary Planning Document (2021).

## **Planning Balance**

63. The Council encourages sustainable development. To ensure that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. The scheme would not materially alter the existing sporting facility use located in an easily accessible area. It would provide economic benefits during construction and in sustaining the tennis club and also result in social benefits for the same reason. It would not result in material harm to the character and appearance of the area of the wider area or the setting of the adjacent Conservation Area. It would have acceptable impacts on neighbouring living conditions. Its environmental impacts are therefore neutral.
64. Having recognised the collective benefits of the proposed scheme, it is concluded that the scheme would achieve the economic, social and environmental objectives of sustainable development, in line with the adopted local policies and the provisions of the NPPF. The scheme is therefore recommended for approval.
65. In reaching this decision the Council has had due regard to the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that "*with respect to any buildings or other land in a conservation area, ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*"

## **Recommendation**

66. GRANT permission for the reasons as set out in this report subject to the following conditions:

### **Conditions**

#### **1. Time**

The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - This condition is required to be imposed by the provisions of Section 91 of the Town and Country Planning Act 1990 and amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

#### **2. Development to be carried out in accordance with plans as listed**

The development hereby permitted shall be carried out in accordance with the following approved plans:

- Revised Site and Location Plans, drawing number 4557.70 rev. B
- Revised Padel Court Plans and Elevations, drawing number 4557 71 rev. B

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

#### **3. Noise**

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The use of the 2 padel tennis courts shall not commence until the acoustic fences have been completed in accordance with the approved plans 4557.70 rev. B and 4557.71 rev. B. At no time thereafter shall the noise levels from the court exceed the maximums identified as specified in the VENTA acoustic report Reference VA3764.240419.L1 at the closest noise sensitive receptors at No. 21 Dunkeld Road, Nos. 10-12 Roslin Road South and No. 15 Roslin Road South.

A detailed scheme of noise mitigation measures (management controls) shall also be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use of the two padel tennis courts. The approved noise mitigation measures shall at all times be accorded with.

Reason: In the interests of the living conditions of neighbouring properties in accordance with Policy CS 38 and CS41 of the Core Strategy (October 2012).

#### **4. Tree Protection**

The development shall be carried out in accordance with the submitted Tree Protection Measures and Arboricultural Method Statement GH2468 and all the approved barriers and measures shall be retained until both the development has been completed and all equipment, machinery and surplus materials relating to the construction of the development has been removed from the site, unless an alternative time is provided for in the approved details.

Until such time as the Approved Tree Protection Measures have all been removed, nothing shall be stored or placed in any area secured by any part of the Tree Protection Measures nor shall the ground levels within those areas be altered or any excavation made without the written consent of the local planning authority.

Reason: To ensure that trees and other vegetation to be retained are not damaged during construction works and to accord with Policy 4.25 of the Bournemouth District Wide Local Plan (February 2002).

#### **5. Provision for Tree Planting**

Prior to the use commencing, full details of two new trees of species, their size, location and the proposed times of planting, shall be submitted to and approved in writing by the Local Planning Authority. The approved tree planting scheme shall be carried out in accordance with those details and at those times and permanently retained thereafter.

Reason: In the interests of visual amenity and effective arboricultural management and in accordance with Policy 4.25 of the Bournemouth District Wide Local Plan (February 2002).

#### **6. Hours of use**

The padel courts hereby approved shall only be used between the hours of 08:00 – 21.00.

Reason: In the interests of the living conditions of neighbouring occupiers and in accordance with Policy CS 38 and CS41 of the Core Strategy (October 2012).

#### **7. Flood lighting**

The proposed floodlighting shall be installed in accordance with the lighting strategy as outlined in appendix 2 of The Sports Facility Planning and Design Limited report, subject to the proposed floodlighting to have a colour temperature of 2700 K or less. The erected floodlights shall thereafter be permanently retained as such.

Reason: In the interests of the living conditions of neighbouring occupiers and in accordance with Policy CS 38 and CS41 of the Core Strategy (October 2012).

#### **8. Statement required by National Planning Policy Framework (APPROVALS)**

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In accordance with paragraph 38 of the revised NPPF the Council, as Local Planning Authority, takes a positive and proactive approach to development proposals focused on solutions. The Council works with applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this instance the applicant was provided with the opportunity to resolve identified planning issues within the application process including acceptable parking, access and turning arrangements on site, as well as waste collection arrangements. Revised plans were provided to address concerns raised by the Environmental Health Noise Officer. The application scheme satisfied planning policy and other material considerations and was progressed to a recommendation of approval.

### **Background Documents:**

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all formal consultation response and representations submitted by the applicant in respect of the application.

Case Officer Report Completed

Officer: Piotr Kulik

Date: 28/06/2024

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