

Site Address: The Mount, Green Lane,
Swalcliffe

12/01772/F

Ward: Sibford

District Councillor: Cllr Reynolds

Case Officer: Simon Dean

Recommendation: Approval

Applicant: Mr & Mrs Bradshaw

Application Description: Construction of a tennis court

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 The application relates to a parcel of land, on the western end of Swalcliffe village, fronting onto the B4035 and within the Conservation Area. The land is currently in a mixed use, with stabling at the Southern end of the parcel, approved in 2009 and horse grazing on the rest of the land.
- 1.2 Levels across the site fall to the North and East, giving views into the site from the B4035 when entering the village and from Green Lane back towards the village. The site is visually contained by trees and hedging of mixed thicknesses and densities.
- 1.3 The proposal is for a tennis court, along the Western boundary of the site, adjacent to the garden of 3 Madmarston View. Owing to the changes in level across the site, it is proposed to cut the Southern end of the tennis court into the ground, with a similar level of building-up of ground levels to the Northern end to provide a flat area for the court. The proposal also includes access steps at the Northern end, fencing around the court (lower in the centre of the court and rising around the ends). No floodlighting is proposed.
- 1.4 Following neighbour and consultee comments, the applicants have amended the proposal to include a second hedgerow along the Western and Northern boundaries of the court, to provide a deeper visual and acoustic screen. The proposal also includes landscape planting along the Eastern boundary of the court, comprising of tree spinneys.
- 1.5 This application was deferred at the meeting of Planning Committee on 28 March 2013 to enable a formal site visit to be held today at 2.25pm

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 7th of February 2013.

Eight letters have been received. The following issues were raised

Material planning comments:

Noise disturbance

Landscape and visual impact

Encroachment into the countryside

Previous 'refusal' reasons of application 08/02296/F

Disconnect between the comments of the Conservation Officer in 2008 and now

Non material comments:
Loss of view

3. Consultations

- 3.1 Swalcliffe Parish Council comment that : *“At our council meeting in January we looked at and discussed this application at great length. The councillors voted on objecting to change of use from agricultural to domestic use and there was a majority vote. Then various emails were circulated because some councillors had not seen the report from the Conservation Officer which is on your website. We tried to rearrange another meeting but ran out of time. This may or may not have affected the original vote.”*

Cherwell District Council Consultees

- 3.2 Conservation Officer: *“The construction of the proposed tennis court will have negligible impact on the character or appearance of the conservation area.”*
- 3.3 Ecology Officer: *“With regard to the above application, I have no objection on ecological grounds. No trees or hedges are to be removed and only a small area of pasture affected. It is unlikely therefore to have any impact on protected/notable species or habitats. Due to the excavations proposed I have checked the site for badger setts and activity in the area and they are not a constraint on site. Lighting is not proposed so there will be no impacts on foraging bats. The addition of the proposed planting in the form of the native hedge (which should include mixed species) and small spinneys will likely represent an enhancement for wildlife on site. Due to its rural location I would request only that a condition should be attached to any permission stating that all planting on site shall consist of native species of UK provenance (condition K23 (amended), Reason KR3).”*
- 3.4 Anti- Social Behaviour Officer: *“Further to your consultation of 08/02/13 I can confirm that I have carefully considered this proposal in terms of the potential it has to affect those properties in the immediate vicinity of the site. I note that the applicants have indicated that they do not propose to flood light the playing surface. If an approval for this proposal I would recommend that a condition be imposed prohibiting lighting at any point in the future as this location would not be suitable. The other issue of concern would be the potential for noise generated by the use and users of the court to adversely affect the reasonable enjoyment of nearby dwellings. The position of the proposed court close to the applicants boundary with the properties making up Madmarston View is of concern. The real issue here is how often the court would be used and on how many of these occasions would the use produce sufficient noise to interfere with the enjoyment of the neighbouring property. It is not possible to accurately estimate or predict either of these factors nor I would suggest could controls on the frequency or duration of the use be put in place through the planning process. Taking the potential worst case scenario where the tennis court is used frequently and for extended periods I can foresee conflict arising, should problems occur and complaints result it would be equally difficult to resolve these conflicts. On balance I would consider that the proposed court is too close to the boundary with its residential neighbours.”*
- 3.5 Initially the Anti Social Behaviour Officer suggested that a separation distance of around 50m would be required to satisfactorily mitigate any impact on neighbouring properties.
- 3.6 However, following a meeting with the applicant, and the submission of a proposed

planting scheme, the Anti Social Behaviour Officer confirmed that *“This proposal will improve the proposal to the point that overcomes my initial objection”*.

- 3.7 Further to the comments in 3.5, the Anti Social Behaviour Officer has suggested that the line of screening planting be extended beyond that shown on the amended plan and that the details of the hedge planting proposed should require the achievement of a final height of 3m.

Oxfordshire County Council Consultees

- 3.8 Highways Liaison Officer: no objections, subject to strictly private use
- 3.9 Drainage Officer: *“Construction details of the playing surface will be required in order to ascertain the permeability of the proposed surface of the tennis court and how it drains water in varying storm conditions.”*
- 3.10 Minerals Officer: *no objections on the grounds of mineral sterilisation”*

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C7: Landscape Conservation
- C13: Area of High Landscape Value
- C28: Layout, design and external appearance of new development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History (discretionary)
- Landscape and visual impact
- Use
- Noise and disturbance
- Heritage asset impact
- Highway safety and convenience

Relevant planning history

- 5.2 As noted by contributors to this application, there has been a previous attempt to secure permission for a tennis court on this site. An application was submitted in 2008 for a stable block and a tennis court. That application was withdrawn, although not before a draft report had been written. The draft report suggested five tentative reasons for refusal (landscape impact, impact on openness, conservation area impact, outside the built area of the village and residential amenity). Although this report was drafted, the arguments and reasoning were never expanded and the application was not refused. Members will also be aware that in 2009 an application for stables on the site was approved.

- 5.3 Following that withdrawn application, the applicant worked with Officers on both the

principle and detail of an application for a tennis court; examining the likely landscape issues and sensitivity, and eventually arriving at the location proposed in this application for the tennis court. The advice given was of course without prejudice to the determination of any application.

Landscape and visual impact

- 5.4 As the site is on the edge of the village, within a locally designated Area of High Landscape Value and visible both from the B4035 to the East and Green Lane to the North, the landscape and visual impact of the proposal is a key factor in the consideration.
- 5.5 Contributors to the application have suggested that the visibility of the proposal results in its unacceptability in landscape and visual impact terms. Officers disagree with this view; it is not in dispute that the tennis court may be visible from the East and the North. It is however considered that the views of this proposal, softened as they will be by landscape planting immediately adjacent to the court, and the existing tree and hedge boundaries to the wider site area, result in an acceptable visual impact.
- 5.6 The overall character of the area will not be fundamentally harmed; the field retains its broadly open appearance, and the location of the court minimises the amount of groundwork required to create the level playing surface. In addition, the location of the tennis court along the Western boundary of the site minimises the encroachment of built form into the open countryside beyond this field.

Use

- 5.7 Contributors to the application have suggested that the proposal is unacceptable because the scheme represents a change of use from agricultural to domestic use. Whilst the application clearly does represent a change of use, this is not necessarily unacceptable; it is merely a part of the consideration. As set out above, the field is currently in a mixed arable and equestrian use. The approved 2009 site plan for the stables effectively changed the use of the lower part of the field to equestrian, to allow the siting of the stables and tack room, with the rest of the field used for the grazing of the horses. This situation will marginally change again in this application, with the provision of a domestic tennis court in the red-line area shown on the drawings.

Noise and disturbance

- 5.8 As set out in section 3 above, initially the Anti Social Behaviour Officer shared the view of the residents of Madmarston View and other contributors that the proposed tennis court would result in an unacceptable level of noise nuisance and disturbance.
- 5.9 However, following a meeting between the Anti Social Behaviour Officer and the agent for the applicant, during which methods of ameliorating any harm were discussed, it appears that an acceptable solution has been found.
- 5.10 There is an existing substantial hedge running along the Western boundary of the site, separating the properties on Madmarston View from the application site. The proposal is now to create a second row of hedging, close to the edge of the tennis court, to complement the existing hedging. Coupled with the lowering of ground level of the tennis court at the end closest to these residential properties, it is now considered that this combination of landscape planting, cutting-in, and enhanced visual separation makes the proposal unlikely to cause unacceptable harm to residential amenity by way of noise or other disturbance.

Heritage asset impact

5.11 As the application site lies within the Conservation Area, any development proposals must either preserve or enhance the character or appearance of the Conservation Area. It is considered that the proposals preserve the character of the Conservation Area, by retaining the broadly green setting for the village edge, whilst also allowing for development ancillary to the domestic uses and properties which characterise the village edge.

5.12 Officers do not consider that the construction of this tennis court, and in effect, the change of use of a further section of this field is in any way harmful to the character, appearance or significance of the Conservation Area.

Highway safety and convenience

5.13 The County Council, as the Local Highway Authority have confirmed that they have no objections to the proposal on the grounds of highway safety or convenience, subject to conditions ensuring the private the use of the tennis court.

Engagement

5.14 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through working with the applicant and their agents in order to work towards a situation where a positive recommendation could be made.

Conclusion

5.15 The proposal is considered acceptable in terms of its impact on neighbouring properties, impact on the amenity of surrounding residents and the appearance of the rural area. The location and size of the proposal and the relationship of the site to neighbouring properties means that there will be no unacceptable neighbour impact and no unacceptable landscape or visual impact.

5.16 The proposal is therefore considered to accord with the provisions of Policies C28 and C30 of the Local Plan; the extension is sympathetic to the character of the context of the development and is compatible with the scale of the dwelling and the street-scene and provides standards of amenity and privacy which are considered acceptable to this authority.

5.17 Furthermore, the proposal does not harm the setting or significance of the heritage assets.

5.18 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, subject to the following conditions:

1. 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 - To comply with the provisions of Section 91 of the Town and

Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design & Access Statement and drawing 2973-(L)-01 received on 07 March 2013.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. The tennis court and land hereby permitted shall be used for private use only and no commercial use including lessons, tuition or competitions shall take place at any time.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. No external lights/floodlights shall be erected on the land without the prior express consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings and of the area in accordance with Policies C7, C13 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

- (d) details of the hedge planting showing an extension of the proposed hedging of not less than 10m southwards along the boundary of the site with the neighbouring properties and the final height to be achieved by the hedging.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. All species used in the planting proposals associated with the development shall be native species of local provenance.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal is of a design, size and type that is appropriate and will not unduly impact on the neighbouring properties, the character of the landscape or the heritage assets. As such the proposal is in accordance with Policies C7, C13 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.