

Application 09/00718/F	No:	Ward: Barford St John and St Michael	Date 29/06/2009	Valid:
Applicant:	Mr. Jonathon Hindle			
Site Address:	The Old Turnstile, High Street, Barford St Michael			

Proposal: Construction of tennis court with enclosure

1. Site Description and Proposal

1.1 The Old Turnstile is a Grade 2 listed ironstone property located within the centre of the village of Barford St Michael. The site is within the conservation area. To the north of the property is a large former paddock area, which has been granted consent to be used as residential curtilage of The Old Turnstile. At the current time, this paddock is very open with few trees and no objects or other structures. The rear of several neighbouring properties back onto the open paddock area. A small area of the paddock has been granted consent to be included within the gardens of the properties backing onto the Paddock. A large hedge forms the boundary with the site to the west, however to the north and east, the boundaries are fairly sparse. To the south, a public footpath runs between the rear of the gardens on Robins Close and the grounds of The Old Turnstile and a low stone wall forms this boundary.

1.2 This application seeks consent for a tennis court, to be vertically aligned to the western side of the paddock close to the western boundary. Landscaping is shown on the submitted plans. A 3 meter chain link fence is proposed to be the boundary for the tennis court, with one side lowered. The applicant has submitted further information stating that no flood lighting is proposed, the tennis court surface would be constructed in an open textured macadam for both the base course and surface wearing course. These are to be laid on a free draining stone mattress. Indigenous and deciduous planting will be introduced to ensure adequate screening.

1.3 The most relevant history to this application is set out below:

Application 05/01888/F which granted consent for a change of use from paddock to domestic use. This application was for a small strip of land to the north and west of the paddock to be used within the gardens of the properties backing onto the paddock; this was subject to conditions restricting development on the land.

Application 07/02125/F refused consent for a tennis court with enclosure. This application was refused due to the resulting harm to the visual amenity of the area due to the engineering works required and the erosion of the open paddock. It was considered to neither preserve nor enhance the character and appearance of the conservation area or the setting of the adjacent listed building. The second reason for refusal was the adverse affect that would result to the living amenities of the neighbouring properties 3 and 4 Rock Close by unacceptable levels of nuisance and disturbance resulting from its proximity to their boundaries and habitable rooms.

The tennis court was to be positioned horizontally to the south east of the paddock, close to the boundaries with the neighbouring properties.

Application 07/02226/F granted consent for a change of use of the paddock to garden. This application granted consent for the whole of the paddock area to be used as garden; however, it was subject to conditions that no structures, objects or pools shall be constructed or hard surfaces laid on the land without the consent of the Local Planning Authority. Furthermore, that no gate, fence, wall or other means of enclosure be erected without the consent of the Local Planning Authority.

Application 08/02484/F refused consent for a tennis court with enclosure for the reason: The proposed tennis court by virtue of its associated hard standing and fencing and its siting within an undeveloped former paddock area, which is highly visible from the public domain and which contributes significantly to the character and the appearance of the conservation area and the setting of the nearby listed building, would detrimentally detract from the rural and open character of its surroundings and would be visually prominent thus causing harm to visual amenity and neither preserving or enhancing the character and appearance of the conservation area or the setting of the adjacent listed building.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, press notice and neighbour letter. The final date for comment was 30/07/2009.

- 2.2 37 letters of objection have been received (several were a standard letter signed by several individuals). The following Issues were raised:
 - Application would markedly reduce the amenity of the village
 - Cause significant damage to the conservation area
 - Third positioning of tennis court is not significantly different to the previous two refused – the LPA has no reason to change its previous view – by impact on Conservation area and neighbouring amenity
 - Paddock has continually for hundreds of years been a tranquil green rural space in the heart of the village. Conservation area status means preserving these qualities – stringent conditions attached to the change of use application
 - Significant contribution to the green space of the village
 - Size of court diminishes area of paddock by approximately one third
 - Tennis court would involve leveling of the land and a tall chain link fence – severely damaging the appearance of the place from any view and could lead to drainage problems
 - Applicant's are under no obligation to plant an arboretum and in any case, the planting would take many years to provide a screen – no trees in the centre of the site will still allow views from neighbouring properties on the east side
 - From the perspective of the north and south (including the public right of way), screening would take a long time to establish and the steepness of the slope would impact
 - Damage to the public footpath will be serious
 - Any screen of trees would have to be deciduous to be character, which would have no screening value in the winter, when the chain linked fencing would be clearly visible from the row of houses and gardens in Lower Street

- If court is floodlit this will have a further impact
- Issue of noise and disturbance to neighbouring properties – an arboretum would be peaceful, which is why neighbours did not object to the change of use of garden land. The exceptional peace of this part of the village is of immense importance to the quality of life of villagers.
- Noise of tennis balls, distractions of rapid movements, people calling and shouting, and potentially lights and observers – seems an electricity line has been installed.
- More the court is used, the more noise, nuisance and disturbance.
- Potentially heavy use.
- Matter of law and common sense that the proposal significantly damages the amenity of the conservation area.
- Environmental damage would be caused to species that use the paddock including that the fencing would bar their route.
- Hazel hurdle fence is unsuitable for the conservation area. Fencing in an extensively used public footpath.
- Footpath has a view downhill and across the fields to the hills opposite, historically important and used by many individuals
- Existing curved wall is beautiful and ancient that forms an ensemble with the house. Erection of hazel hurdle fencing would eliminate much of this beauty. Effect on wider amenity of the footpath itself.
- Visual barrier around 2.2m, downhill side of the footpath to which the eyes of passers by naturally turn. Fences on the south side are just a small section and uphill and lower than the applicant's hurdles.
- Erection of fence would have an immediate and real loss of public amenity to the people who use the footpath.
- Safety issues with erection of new fence enclosing this space.
- Applicant's wish for privacy is understandable but this should be done with planting rather than harming the amenity of the public footpath.
- Development will not preserve or enhance the conservation area
- Tennis court is not sympathetic, sensitive or harmonizing with its neighbours
- Tennis court impacts on the setting of the listed building.
- Previously delegated report suggested 7-8 years would be required for sufficient screening
- Insufficient detail of tennis court construction material provided
- Significant leveling would be required neither enhancing nor preserving the conservation area.
- Hazel hurdle fencing would not provide an effective screen from the properties bounding the site
- Guidance of council inconsistent with the conditions imposed on application to change part of the land to garden land of some of the neighbouring properties.
- When planning permission was granted for the change of use, one condition was that a tennis court could not be built. By not appealing the imposition of this condition, the applicant has accepted the conditions under which change of use was granted.
- No grounds for this application to be approved given the previous refusals and could open the flood gates to further applications.
- Erection of fence will create an urban walkway and destroy the character of the path.
- Chain link fencing clearly visible from neighbours in Lower Street

3. Consultations

- 3.1
- Barford St Michael and St John Parish Council object to the application due to the harm caused to the visual amenities of the area and that it will not preserve or enhance the character or appearance of the conservation area or the setting of the listed building. Object to the hurdle fence as it would be out of character with the area. Fence would have an impact on the amenity of the footpath, blocking views and creating an unpleasant character. Possible drainage problems, Noise and disturbance to neighbouring properties, possibility of flood lights in the future.
 - OCC Highways – No Objection
 - Cherwell District Council (Conservation) requests the proposal is amended and makes the following comments: Tennis court fencing is inappropriate in the setting of a listed building, court will be visible from the public domain, Lighting should not be permitted, proposed fence along boundary wall would produce an unpleasant tunnel like effect north of the properties on Robins Close, siting of this fence will cause damp and encourage water egress. Fence should be installed behind the wall and should not rise to more than 2m in height to prevent obscuring the openness of the conservation area.
 - Cherwell District Council (Contaminated Land) raises no objection but requests a planning note.
 - Oxfordshire County Council (Archaeology) raises no objection but requests a planning note.
 - Cherwell District Council (Arboricultural Officer) requests further information.

4. Relevant Planning Policies

- 4.1 PPG15: Planning and the Historic Environment
The South East Plan: Policies BE1 and BE6
Adopted Cherwell Local Plan 1996 – Saved Policies C28 and C30
Non Statutory Cherwell Local Plan Policies EN1, EN39, EN40

5. Appraisal

- 5.1 The key issues are;
Impact on visual amenity
Impact on the character and appearance of the conservation area
Impact on the setting of the listed building
Impact on neighbouring amenity
Impact on highway safety
- 5.2 Visual Amenity
The former paddock area is currently open and views can be achieved across the site from the public right of way to the south and the rear of properties that back on to the site. Land to the west is public open space but the existing hedge limits views in to the site. The development of a tennis court as proposed, whilst the former paddock is in its current open state, could appear incongruous. However, following

the previous refusals the tennis court has been relocated to maximize the distance from the neighboring properties and proposals for extensive planting (which do not need planning permission following the permission for use of the land as domestic curtilage) have been provided. Once planting has been established views of the proposed tennis court would be restricted and it would be seen in the context of the domestic curtilage. In this context the proposed tennis court it is not considered that it would have a detrimental impact on visual amenity. Whilst it is recognized that it would take a number of years for landscape planting to mature sufficiently to screen the proposed court completely it is not considered to be so prominently sited as to merit refusal for this reason alone. Discussions have taken place with the applicants to seek advance planting but given the works required to construct the tennis court they have advised it is not practical to carry out the proposed planting in advance.

5.3 Character of the Conservation Area

The site lies within the Barford St Michael Conservation Area and therefore it is necessary to consider the character of this part of the Conservation Area and whether the proposal will preserve or enhance the character and appearance of the area. This area of land is an important part of the Conservation Area, however the Council has accepted that this land is now residential curtilage through a change of use application and therefore the character of the area will be changed by this. Further changes can also be made by the planting of vegetation and trees which would not need planning permission. The tennis court will have an impact on the character and appearance of the area as it exists at the present time but this character will change as a result of the change of use to garden. As set out above once landscaping is established the proposed tennis court would, in the view of the Head of Development Control and Major Developments, not adversely impact on the Conservation Area. The impact of the proposed tennis court whilst landscaping matures is not as damaging to the area as the formerly proposed tennis courts and given that its impact will be mitigated as landscaping matures is not considered so harmful as to justify refusal of the application.

5.4 Impact on the Setting of the Listed Building

The proposed tennis court is situated in the former paddock approximately beyond the residential curtilage that would have existed at the time the building was listed. The proposed tennis court is therefore approximately 60 meters from the building itself. The land will require some leveling in order to accommodate the tennis court, which will be at a lower level than the public right of way, however will be at a higher level than the neighbouring properties. A sectional drawing has been requested to provide further information, which is anticipated prior to the Committee meeting. The chain link fencing is fairly tall at 3m. However the change of use of the paddock to garden will to some extent change the wider setting of the listed building and with landscaping mitigation the tennis court is not considered to have a detrimental impact on the setting of the building.

5.5 Impact on Neighbour Amenity

With regard to neighbour amenity, the proposed tennis court is situated as far away from any neighbouring properties as is possible. The court is to be used ancillary to the dwelling and a condition has been recommended to ensure this remains. Given the current permitted use of the land as domestic garden the proposed use of the

court, given its location and distance from properties is not considered likely to adversely affect the amenities of the neighbouring properties.

5.6 Highway Safety

No highway safety issues arise from the proposed tennis court and the Local Highway Authority raise no objections.

5.7 Other Considerations

The land has been approved as residential curtilage as described above, with a condition restricting permitted development rights. This condition does not imply that no development at all would be acceptable, just that the LPA required control over development to ensure the amenities of the area were not adversely affected. In supporting this application the Council is not making a decision against previous decisions, but rather it has been demonstrated this court is on balance more appropriately located given that it is tucked into the side of the site away from any neighbouring properties and the impact can be mitigated through landscaping proposed.

5.8 The hazel hurdle fencing, which was previously proposed on the southern boundary for screening would have an adverse impact on the footpath and would enclose the public right of way, which may discourage pedestrians from using it. This element has been removed from the application and therefore this application seeks consent solely for the tennis court, the enclosure surrounding it and the ground works required to construct the court. This also addresses the Conservation Officer's comments.

5.9 Some question is raised over the accuracy of the plans, which is currently being addressed and clarification of which will be provided at the Committee meeting. A condition has been attached to ensure that details of all protective measures for the trees on the western elevation will be submitted to and approved in writing prior to the commencement of development.

5.10 The comments of the neighbouring properties are noted and the concerns raised regarding the impact on the conservation area have been addressed within this report. The comments regarding the hazel hurdle fencing are addressed by this element having been removed from the proposal. As explained previously the Head of Development Control and Major Developments does not consider that the approval of this application goes against previous decisions as the court is positioned differently and is the most appropriate location on the site for a tennis court. Additionally, the impact on neighbouring amenity is limited by the fact that it is set away from the boundaries with neighbouring properties and will only be used in association with the dwelling. Any complaints by noise and disturbance can also be addressed by the Council's Anti social behaviour team if necessary. The loss of a private view is not a planning matter and therefore cannot be considered as part of this planning application. The view from the public domain and conservation area is relevant however as previously explained; the impact can be appropriately mitigated. A condition is recommended to ensure a full and appropriate landscaping

scheme is installed, which is appropriate, this must be adhered to, otherwise the Council can consider taking further action. No flood lighting is proposed within this application and any such lighting would require planning permission as a condition has been attached to restrict this. The comments regarding species are noted, however the Council has no records of notable species and therefore it is not reasonable to ask for surveys regarding this matter. The approval of this application does not prejudice any subsequent applications which would require planning permission and would be fully assessed at that stage. The court is to be constructed from an open textured tarmacadam, to allow drainage through.

6. Recommendation

Approval, subject to:

The receipt of a satisfactory plan showing the sections of the tennis court that is considered acceptable by the Local Planning Authority

Conditions

1. 1.4A (RC2) [Full permission: Duration limit (3 years)]
2. 6.16AA (RC40AA) [Incidental use] insert 'tennis court'
3. 3.3AA (RC72A) [Scheme to be submitted to protect retained trees] (e, f, g)
4. 3.0A (RC10A) [Submit landscaping scheme]
5. 3.1A(RC10A)[carry out landscaping scheme]
6. 8.18 (RC50) [Floodlights/ Lights]
7. 5.5 AA(RC96.A) [fencing details]

Planning note

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