

Section 78 Town and Country Planning Act

Appeal Statement - Written Representations Procedure

Erection of 2 paddle courts with fencing and flood lights

Seacourt Tennis Club, 20 Victoria Avenue, Hayling Island, Hampshire, PO119AJ.

Site Information

Consultant	Jonathan McDermott
Client	Nick Atkins of Seacourt Tennis Club Ltd
Site Address	Seacourt Tennis Club, 20 Victoria Avenue, Hayling Island, Hampshire, PO119AJ.
LA	Havant Borough Council.
Description of Development	Erection of 2 paddle courts with fencing and flood lights.
Pathway (PD/Application/Appeal)	Appeal

Constraints Review

Flood Risk Zone	1
Contaminated Land	No
Tree Preservation Order	No
Heritage Assets	No
Noise Abatement Areas	No
Explosive Hazard Areas	No
Area of Outstanding Natural Beauty	No
Special Protection Area	No
Site of Special Scientific Interest	No
RAMSAR Convention Site	No
Site of Importance to Nature Conservation	No
Article 4(2) Directions	No

Local Policy Requirements

Local Plan/Core Strategy	Havant Borough Core Strategy Adopted 2011
Effective Policies in Development Control	Policy CS16 DM10
SPG/SPD's	None

Planning History

Relevant History	Alterations to tennis court floodlights approved under planning permission 91/56 931 dated 2nd July 1992 Seacourt Tennis Club, 20 Victoria Avenue, Hayling Island, Hampshire, PO119AJ. Ref. No: 93/56931/003 Status: - Approved
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Report Date

20 January 2025

1. Introduction

1.1. The site, the subject of this appeal, relates to Seacourt Tennis Club located at 20 Victoria Avenue, Hayling Island. The property comprises a mixed tennis club offering a variety of racket sports courts including two floodlit external tennis courts. The application, now subject to this appeal, relates to the erection of 2 padel courts with fencing and flood lights.

About Town Planning Expert

1.2. Town Planning Expert is a general needs planning consultancy formed in 2012 and practising as a Chartered Planning Practice. Town Planning Expert is instructed to submit a planning application for development as set out below.

Our VICTORY © Framework

1.3. Our VICTORY Framework applies a policy, plan-led, approach to development with the intent of gaining planning permission in a manner that complies with National and Local Planning Policy in accordance with S38 of the Planning and Compulsory Purchase Act 2004.

The Development subject to this appeal

1.4. Planning Permission was sought for the erection of 2 padel tennis courts with flood lights. The land to be used is a petanque court and lies next to 2 existing tennis courts with fencing flood lights.

1.5. The application was supported by a number of technical assessments including a full noise assessment. This assessment concluded that the noise from the operation of the proposed Padel Tennis Courts would not amount to a deleterious impact on the amenity of adjoining occupiers to the north, south and west by a marked increase in noise and general disturbance.

1.6. With regret the Planning Authority have refused planning permission for the following reason:

The proposal would be inappropriately located close to neighbouring properties, and as a result would have a significant adverse impact on the occupiers of those neighbouring residential properties by reason of noise and disturbance which would have a detrimental and injurious impact on their wellbeing and use of their properties, contrary to Policy CS16 e) and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Executive Summary

1.7. The appellant naturally takes an opposing view. The use of the land itself for any purpose associated with the use of the existing tennis club, which could include the formation of grass tennis courts, would not amount to development requiring planning permission. It is the operational development associated with Padel Tennis itself that rendered a need to apply for planning permission in this instance.

1.8. The appellant provided a detailed noise assessment to accompany the application including the provision of acoustic fencing to the boundary with the nearest affected occupier to the north and south. This technical information demonstrated that the harm in terms of noise and disturbance from the Padel Courts proposed would be limited and the wider benefit for providing additional racket sports for the Borough would outweigh any perceived harm, notwithstanding the longstanding relationship between the existing club and its neighbours.

1.9. As such, within this appeal, the appellant will demonstrate that the council's position is not based on any UK standards for the creation of Padel Tennis Courts and the harm attributed to the formation of two padel courts has been overstated given that the operation of the proposed courts can be more than adequately controlled by conditions to which the appellant provides within this appeal statement.

2. National and Local Development Frameworks.

National Planning Policy Framework

2.1. The National Planning Policy Framework was revised in response to the Proposed reforms to the National Planning Policy Framework and other changes to the Planning system consultation on 12 December 2024 and sets out the government's planning policies for England and how these are expected to be applied.

2.2. This revised framework replaces the previous Nation Planning Policy Framework published in March 2012, revised in July 2018, updated in February 2012, revised in July 2021, updated in September 2023 and revised in December 2023.

2.3. The Council refers to the NPPF generally within its reason for refusal. As such the appellant draws the Inspectors attention to the components of the NPPF that are most relevant to the specifics of this application and the decision at hand.

Decision-making

39. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Promoting healthy and safe communities

96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

98. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Open space and recreation

103. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities

(including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

104. Existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

Ground conditions and pollution

198. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*

- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*

- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

Local Policy

2.4. The policies that were held as reasons to refuse planning permission are set out within the Council's decision notice. The appellant sets out below why the proposal would comply with the policies so noted.

Policy	Comment
Policy CS16(e) High-Quality Design	Policy CS16(e) as stated by the Council does not in fact exist. It is presumed that the Council actually refers to Policy CS16(1)(e) which states that “the development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking”. The parties agree that the development would not result in a loss of amenity through smell, the loss of privacy, outlook, and overlooking. The ground of appeal below will contest that the assertion that the development will result in an impact in terms of noise is overstated and not supported by evidence.
DM10 Pollution	This policy states that development that may cause pollution of water, air or soil or pollution through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, heat, electromagnetic radiation and other pollutants will only be permitted where all of the criteria within the policy can be met. Having regard to those criteria; 1. The health and safety of existing and future users of the site, or nearby occupiers will be unaffected. 2. National air quality standards or objectives would not be breached. 3. The water environment would not be detrimentally affected. 4. The development would not lead to an unacceptable deterioration in the quality or potential yield of coastal, surface and ground water resources. 5. External lighting is of the minimum level of illumination and duration required for security and operational purposes. 6. External lighting would not interfere with

	safe navigation in either Chichester or Langstone Harbours and other coastal locations. As such the 6 criteria that the policy requires are all met by this proposal and the development should not have been refused under this policy.
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3. The Planning History

3.1. The Tennis Club itself pre-dates planning control. The relevant planning history for this site is as follows:

Alterations to tennis court floodlights approved under planning permission 91/56 931 dated 2nd July 1992 | Seacourt Tennis Club, 20 Victoria Avenue, Hayling Island, Hampshire, PO119AJ.
 Ref. No: 93/56931/003 | Status: - Approved

4. Site, Context and Comparable Forms of Development

4.1. The land subject to this appeal sits directly next to the 2 existing external tennis courts for the club.

5. The Development Team

5.1. The developer comprises the club itself and this development sees the club endeavouring to enhance its own facilities.

6. Alternative Forms of Development Considered

6.1. The existing land for the proposed development is an existing petanque court and grass area. As the site is within the bounds of a tennis club a grass short tennis court could be set out without the need for additional permission.

6.2. As such the only component of this development that requires a full planning permission is

the erection of fencing and floodlights for the Padel Courts themselves.

7. Constraints to Development

7.1. The proposed padel court sites are close to boundaries of existing residential properties at Nos 10-14 Victoria Avenue, Reading House at No204 the Sea Front and Nos 200 and 202 The Seafront.

8. Draft Statement of Common Ground

8.1. In considering the sole and tightly worded reason for refusal the appellant proposes the following as common grounds.

That the principle of providing Padel Courts at Seacourt Tennis Club is established and acceptable.

That the proposed development would not result in an unacceptable outward appearance.

That the proposed development would not result in an unacceptable impact on biodiversity or protected species.

That the proposed development would not give rise to an impact on the amenity of the adjoining and surrounding occupiers in terms of loss of light, outlook, privacy or enclosure.

That the addition of two Padel Courts would not have an impact on the safety and convenience of the highway from additional comings and goings associated with the development or use of the Courts.

8.2. The sole issue upon which the parties disagree is that the proposed Padel Courts would generate noise, over and above the existing noise generated by the existing Tennis Club and that this noise would be deleterious to the enjoyment of the adjoining occupiers homes.

9. Grounds of Appeal

9.1. As stated above the sole issue upon which the parties disagree is whether the proposed Padel Courts would generate noise, over and above the existing noise generated by the existing

Tennis Club and that this noise would be deleterious to the enjoyment of the adjoining occupiers homes. These grounds of appeal are therefore restricted to this sole issue.

9.2. Nationally the Government supports the development and enhancement of existing sporting facilities. This is also repeated locally within the Core Strategy. As such the focus of the LPA should be to support existing sporting facilities and widen their offering rather than seek a reason to withhold consent.

9.3. As stated within the policy assessment the development would meet the 6 criteria provided for within policy DM10 to approve planning permission.

9.4. There is no adopted planning guidance within the UK for the construction of Padel Tennis Courts. The guidance provided by the Lawn Tennis Association states only that careful consideration should be given in respect of noise to residential occupiers nearby. A copy of this guidance is provided within the appeal.

9.5. The Sports And Play Construction Association (SAPCA) Code of Practice for the Construction of Padel Courts states:

Careful consideration for the proposed location of the padel courts should be given in relation to the impact of noise on adjacent residential properties. If a residential property is within 30.0m of the padel court, then it is advisable that a formal noise assessment is undertaken by a specialist consultant prior to making a planning application. Based on the findings of this report, mitigation measures may be required within the scheme design, such as acoustic fencing or barriers to reduce the travel of sound down to an acceptable level. It may even be a requirement from the Planning Authority to move the court to a more appropriate location. In some contentious locations adjacent to residential properties, planning authorities may stipulate a planning condition that a further noise assessment is carried out once the court is in use.

9.6. A copy of this guidance is also provided within the appeal bundle. In both respects noise is a consideration in court design but not determinative and there is no prohibition in relation to court construction within a set distance.

9.7. Sports England Design Guidance Note 'Artificial Grass Pitch (AGP) Acoustics – Planning Implications' (August Revision 001) provides a recommended limit of 50 dB LAeq(1 hour) external to residential properties.

9.8. As advocated within the SAPCA Code of Practice a noise assessment has been carried out and was provided to the LPA. This assessment is provided within the appeal bundle together with its associated further conclusions. The report concludes that with the provision of a 2.5m acoustic fence incorporated within the application before the Inspector, the Sports England recommendations are met in all locations with the exception of the first floor level at the dwelling to the south, where the exceedance is 2dB above the Sports England Criteria. This is significantly lower than the prediction carried out by the Council within its EHO Officers statement.

9.9. In addition, as discussed in the report, the use of the padel courts only during the daytime suggests that the ground floor and garden areas are most relevant. It should also be noted that the Council's assessment has considered two courts in constant use (no breaks between rallies, for change of games, etc.), and so provides a robust scenario. Actual usage intensity is likely to be lower, especially within the colder winter and spring months and within the morning and later evening periods in the summer and autumn resulting in lower sound levels.

9.10. The primary disagreement between the parties rests in the argument that the sound of padel is significantly different to tennis to constitute a change in the acoustic character of the area. It is acknowledged that this is a different racket sport however, it must also be acknowledged that racket sports are already played at the club and that the tennis courts are not used for just lawn or hard court tennis. The impact of an additional facility at the club is therefore lower than an equivalent scheme being introduced to a site with no such history.

9.11. It is with consideration of the above context (considering first-floor windows during the daytime in an area with pre-existing racket sports) that the initial assessment of a moderate impact can be downgraded.

9.12. Notwithstanding the above, the appellant also proposes a number of conditions in order to mitigate and manage the occurrence of this new noise type on residents within the area. These conditions are set out below:

Prior to first use of the padel courts hereby approved, 2.5m high acoustic screening shall be installed to the south and north boundary of the appeal site and retained in that condition thereafter.

Prior to first use of the padel courts hereby approved, a noise management plan to include the provision of signage reminding players of their proximity to residential dwellings shall be

submitted to and approved by the Local Planning Authority in writing. The scheme shall then be carried out and operated in accordance with the Noise Management Plan.

The Padel Courts shall only be operated between the hours of 9am and 9pm Monday to Sunday inclusively.

9.13. It is considered that the provision of the above conditions is more than sufficient to mitigate the additional noise predicted from the proposed Padel Courts and this would address the harm as outlined within the sole reason for refusal.

10. Conclusion

10.1. Given the clear wider benefits to improving and enhancing an existing indoor and outdoor sports facility for the community of Hayling Island it is considered that planning permission should have been granted in this instance. Sadly, and notwithstanding the absence of methodology or evidence, the LPA sought to refuse the application. The appellant now must turn to the Inspector for recourse in this matter.

10.2. The appellant notes that the LPA has and will draw comparisons between the appeal site and other Padel Tennis facilities in Hampshire which themselves may or may not have acoustic mitigation. The appellant asks that the Inspector assess this appeal on its own merits and having regard to the specific nature of the appeal site including its existing unfettered use.

10.3. As such the appellant requests that the appeal is allowed and planning permission is granted.