

Reference:	20/02220/FUL	
Application Type:	Full Application	
Ward:	St Lukes	
Proposal:	Replace two existing outdoor tennis courts with four Padel tennis courts, incorporating fencing up to 4m high, external floodlights and erection of canopy roof over three courts (Amended Proposal)	
Address:	Southend Leisure And Tennis Centre, Garons Park, Southend-On-Sea	
Applicant:	Mr Christopher Wilkinson	
Agent:	Kate Jennings of Whirledge & Nott	
Consultation Expiry:	17th March 2021	
Expiry Date:	12th April 2021	
Case Officer:	Robert Lilburn	
Plan Nos:	Location Plan, 1902-10-001-GA rev C, Site plan v1, 2533 TP-001, 1902-10-004 rev D, 1902-10-005 rev C	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The application relates to a pair of outdoor tennis courts at Southend Leisure and Tennis Centre within Garon Park. The courts are part of a group of four tennis courts with flood-lighting columns and associated low fencing. The group is surrounded by semi-mature trees and is situated to the immediate north-west of the main leisure centre building and its car park.
- 1.2 The site is otherwise surrounded by school playing fields, public playing fields and recreational grounds. There is an area of hard-surfaced netball courts to the immediate west. A cricket pavilion is situated to the north.
- 1.3 A development has previously been approved on the application site to "*Replace two existing outdoor tennis courts with four new Padel tennis courts with 4m high fencing and external floodlights, one to include canopy roof*". This provided for the four Padel courts in a similar layout as currently proposed, with a smaller canopy of polycarbonate construction encompassing one court only.
- 1.4 The site is located in the green belt and is allocated as protected green space, as identified on the policies map of the Development Management Document. It is within flood zone 1.

2 The Proposal

- 2.1 The proposal seeks to replace two existing outdoor tennis courts with four new "Padel" tennis courts including fencing and panelling up to 4m high, floodlights and a canopy roof encompassing three of the four new courts.
- 2.2 A "Padel" tennis court design comprises a textured sand-filled synthetic carpet with a playing surface of 20m x 10m, which is enclosed by steel mesh and glazing uprights to 4m in height with supporting aluminium posts.
- 2.3 The proposed canopy would be some 24.5m in width and 37m in length, with a maximum height of some 9.67m, and a minimum height of some 6.5m at each side. The canopy would be formed of an inflated fabric roof together with inflated fabric walls, formed of a translucent white polyester textile membrane coated with PVC. The applicant states that this material could be finished in grey if preferred.
- 2.4 The canopy would be supported and anchored with aluminium alloy supports, trusses and arches, with galvanized cables. The supports would be sunk into the ground around the perimeter of the courts. The lighting columns would be some 6.1m high and positioned integral to the courts.
- 2.5 Proposed opening hours would be 08:00 to 22:00 daily. The applicant states that employment would be provided on the basis of one full time and two part-time staff.
- 2.6 The application is supported by letters from the Lawn Tennis Association, Active Essex, and Cecil Jones Academy. The applicant has also provided an Arboriculturists Report, a Lighting Assessment, and a revised Design and Access Statement within the Planning Statement.

- 2.7 The application follows an earlier refusal of planning permission to “*Replace two existing outdoor tennis courts with four new Padel tennis courts with 4m high fencing and external floodlights, one to include canopy roof*” (20/00442/FUL), the reason for refusal is set out in section 3 of the report.
- 2.8 The proposal differs from the earlier refused proposal in the following key respects:
- reduced canopy coverage from four courts to three courts;
 - reduced canopy size from 37m width, 37m length (proposed 24.5m x 37m);
 - height increase of canopy by some 0.3m.
- 2.9 The application has been referred to the Development Control Committee on the basis that the recommendation is a potential departure from adopted development plan policy in relation to the green belt.

3 Relevant Planning History

- 3.1 20/00442/FUL - Replace two existing outdoor tennis courts with four new Padel tennis courts with 4m high fencing and external floodlights, and canopy roof over – planning permission refused for the following reason:

The design, size, siting and scale of the proposed development is such that it would be significantly harmful to the openness of the green belt and very special circumstances to outweigh this level of harm to the green belt, including its community and sporting benefits have not been advanced in the application. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework and Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007).

- 3.2 19/01029/FUL - Replace two existing outdoor tennis courts with four new Padel tennis courts with 4m high fencing and external floodlights, one to include canopy roof – planning permission granted.

4 Representation Summary

4.1 Public Consultation

4 neighbouring properties were notified. A site notice was posted and a press advertisement was published, advertising the application as a departure from development plan policy. No letters of representation have been received.

4.2 Sport England

No objection.

4.3 Highways Team

No objection.

4.4 Parks

No objection subject to conditions relating to tree protection.

4.5 Environmental Health

No objections subject to conditions relating to construction and operating hours.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance and National Design Guide (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport & Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and green Space)
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon and Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management)
- 5.5 Design & Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of development, impact on the green belt, any community benefits and effect on sport and recreation provision, design and impact on the character of the area, impacts on residential amenity, traffic and transportation and CIL.

7 Appraisal

Principle of Development

- 7.1 The application site is located within the green belt where there is a general presumption against inappropriate development.
- 7.2 Policy KP1 seeks to maintain the green belt. Policy KP2 seeks development which will respect, conserve and enhance and where necessary adequately mitigate effects on the natural and historic environment, including the Borough's biodiversity and green space resources. Policy CP4 of the Core Strategy seeks to maintain the function and open character of the green belt.
- 7.3 Paragraph 133 of the NPPF states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of green belts are their openness and their permanence.
- 7.4 Green Belt serves five purposes:
 - a) To check the unrestricted sprawl of large built-up areas;
 - b) To prevent neighbouring towns merging into one another;
 - c) To assist in safeguarding the countryside from encroachment;
 - d) To preserve the setting and special character of historic towns; and
 - e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land(Paragraph 134 of the NPPF).

Whether the proposal is inappropriate development in the Green Belt:

- 7.5 Paragraphs 143 and 144 of the NPPF state *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'*
- 7.6 Paragraph 145, Part B of the NPPF goes on to state that "A local planning authority should regard the construction of new buildings as inappropriate in the green belt. Exceptions to this are: b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the green belt and do not conflict with the purposes of including land within it".
- 7.7 While not within the conventional definition of a building, the development would comprise a new building for the purposes of planning controls. The proposed canopy enclosure would be bulkier in appearance than the earlier approved single canopy, as a result of its length, width, height and design. Its curved roof would result in a degree of prominence viewed from west and east, accentuated by the enclosing side and rear panels, and the use of an inflated fabric construction which would to all intents and purposes appear solid.
- 7.8 Its wider visibility would be interrupted by trees to some degree; however it would nonetheless have a substantial presence. Its support structures would in turn have a degree of prominence greater than the existing and previously-approved lighting columns and fencing, for example.
- 7.9 The development would be situated in the context of the sports centre building and car park. The building and nearby school are not within the green belt. Their juxtaposition with the development would not mitigate its effects upon the openness of the green belt.
- 7.10 The proposal would not preserve the openness of the green belt and would be harmful to it. The impact upon the openness would be a result of the scale, design and position of the proposed canopy. Although it would provide for sports facilities it would therefore be inappropriate development in the green belt.
- 7.11 However, further to paragraphs 143 and 144 of the NPPF, it is necessary to consider whether there are any very special circumstances arising from other considerations that in this instance would outweigh the harm identified.

The Green Belt Balance and any Very Special Circumstances

- 7.12 At paragraph 91 the NPPF states that planning decisions should support social interaction, and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.

- 7.13 At paragraph 96 the NPPF states that access to opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 97 states that *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless...(c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use”*.
- 7.14 This is consistent with Policies CP6 and CP7 of the Core Strategy. Policy CP6 seeks to provide for community infrastructure for the Borough. This specifically includes safeguarding the existing and providing new leisure, cultural, recreation and community facilities, particularly by optimising the potential of Garon Park.
- 7.15 Policy CP7 seeks qualitative improvements to existing recreational open spaces and sports facilities, including the ancillary facilities needed to support them, for the benefit of local residents and visitors.
- 7.16 The development would provide additional sport and recreation facilities for the community. The applicant notes that the proposal would allow all-weather use of the facilities, providing health benefits through sport and recreation to the community all year round.
- 7.17 The size of the canopy has been reduced by approximately a third from the earlier refused proposal. The applicant states that the proposal would be the minimum size necessary for the development to stage a successful LTA Padel ‘grade one’ event (where all national players can take part). The applicant also states that this size is dictated by the need for a specific roof height and a structural integrity to accommodate the potential for snow. It has been reasonably demonstrated that there would be no less impactful (in terms of the green belt) means of achieving the degree of weatherproofing sought for facilities in this context.
- 7.18 The development would not result in the loss of any part of an existing playing field. The proposal would provide new facilities to widen tennis participation within the Borough, which is supported by Sport England and the Lawn Tennis Association. The proposal is in this respect in general principle in accordance with Policies CP6 and CP7 of the Core Strategy.
- 7.19 The proposed canopy would be the minimum size effective and the minimum size technically suitable, while achieving the significant community and sporting benefits outlined. It is found that although the development would have an impact on the openness of the green belt and be in conflict with planning policy in this regard, very special circumstances, in the form of the design of the proposal combined with the community and sporting benefits it offers, sufficient to outweigh this harm and any other harms resulting from the proposal have been advanced by the applicant.

Protected Green Space

- 7.20 The development would not result in the loss of any part of an existing playing field. The proposal would provide new facilities to widen tennis participation within the Borough, which is supported by Sport England and the Lawn Tennis Association. It is also noted that no objection was previously raised on this basis. The development is acceptable and policy compliant in this regard.

Design and Impact on the Character of the Area

- 7.21 Paragraph 124 of the NPPF states that *“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.
- 7.22 Planning Practice Guidance and National Design Guide (2019) seeks well-designed places in which development integrates and relates well into its surroundings.
- 7.23 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to support development which integrates appropriately into its setting including landscape setting.
- 7.24 The Design and Townscape Guide notes at paragraph 40 that new development should work with the landscape and seek to make best use of the site’s existing topography and natural features. New proposals should be designed to accommodate existing trees and other landscape features.
- 7.25 The proposed courts, comprising surfacing, boundaries and lighting, would be reasonably integrated into the setting which is an existing set of tennis courts in a wider sporting facility. The canopy enclosure would be a substantial feature along with its supports. It would be a functional design. In the setting of the larger sports centre, it would not be harmful to the character and appearance of the site and surroundings.
- 7.26 The proposed supports would be situated in close proximity to a number of trees. The submitted arboricultural report demonstrates reasonably that the trees can be protected in accordance with British Standards BS5837. The trees are not protected by a preservation order. However, tree protection measures are recommended to be secured with a condition of any planning permission in this instance. The development is acceptable and policy compliant in terms of design and character matters.

Impact on Residential Amenity

- 7.27 Policy DM1 of the Development Management Document requires that development protects the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight.
- 7.28 The development would be located some 180m from the nearest residential property, identified as the caretakers house at Cecil Jones Academy to the south. While the canopy may be visible from the dwelling and nearby residential areas, its impact on occupiers would not be harmful given its distance in any relevant regard.
- 7.29 Consistent with the earlier approved application the proposed lighting would not have a harmful impact on nearby occupiers. There are 6 existing floodlights on site which are currently subject to a condition to prohibit use during the hours of 22:00 to 08:00. In the event of a grant of planning permission it would be appropriate to include a condition to control the hours of use for the new lighting.

- 7.30 Any increase in activity at and around the site in association with the proposed courts would not materially affect nearby residents, given the existing use, scale of development and the site characteristics. The proposal is considered to be policy compliant in these regards.

Traffic and Transportation Issues

- 7.31 Policies CP3 and DM15 seeks to maintain highway safety and accessibility. Policy KP2 requires that new development does not compromise delivery of the identified Strategic Objectives which include securing the health and well-being of the community.
- 7.32 An additional level of traffic and parking demand would be expected from the enhanced facility proposed, however this would likely be minor in nature and reasonably capable of accommodation within the site and surrounding highways. The proposal is considered to be policy compliant in terms of parking, traffic and highways matters.

Community Infrastructure Levy (CIL)

- 7.33 Although this application is CIL liable, in this instance the chargeable amount has been calculated on the basis of a zero rate as applicable to a community leisure use.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The development would provide sporting and community benefits in association with the existing use of the land. The development would affect the openness of the green belt and would therefore constitute inappropriate development in the Green Belt. However, the applicant has reasonably demonstrated that the proposal would be the minimum scale necessary for its purposes, and as such similar benefits could not be achieved through an alternative proposal. Therefore, in this instance there are very special circumstances that clearly outweigh the harm to the Green Belt and any other harm caused by the proposal and it is considered acceptable and has overcome the previous concerns in this respect. The proposed development is found to be acceptable and compliant with planning policy in all other regards. It is therefore recommended for approval subject to conditions.

9 Recommendation

MEMBERS ARE RECOMMENDED TO GRANT PLANNING PERMISSION subject to the following conditions:

- 01 The development hereby permitted shall begin not later than three years from the date of this decision.**

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 02 The development hereby permitted shall be carried out in accordance with the approved plans: Location Plan, 1902-10-001-GA rev C, Site plan v1, 2533 TP-001, 1902-10-004 rev D, 1902-10-005 rev C.**

Reason: To ensure that the development is carried out in accordance with the development plan.

- 03 The courts shall not be artificially illuminated between the hours of 22:00 and 08:00 on any day.**

Reason: To ensure the lighting does not cause demonstrable harm to the Green Belt or the amenities of nearby residents, in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, the Development Management Document (2015) Policies DM1 and DM3 and advice contained within the Design and Townscape Guide (2009).

- 04 The external floodlighting hereby permitted shall be installed in accordance with the details and specifications shown on the approved drawings and the details of the external lighting contained within the Relux report dated 18.12.20 before it is brought into use and shall be permanently maintained as such in perpetuity thereafter.**

Reason: To ensure the lighting does not cause demonstrable harm to the openness of the Green Belt, or the amenities of nearby residents, in accordance with the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, the Development Management Document (2015) Policies DM1 and DM3 and advice contained within the Design and Townscape Guide (2009).

- 05 The tennis courts shall not be open for use outside the following hours: 08:00 to 22:00 hours on any day.**

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, and the Development Management Document (2015) Policies DM1 and DM3 and advice contained within the Design and Townscape Guide (2009).

- 06 The development to which this planning permission relates shall not be implemented if any part of the development for which planning permission was granted by the Local Planning Authority on 25/09/2019 under planning permission reference 19/01029/FUL is commenced. Once the permission hereby granted is implemented, the previous permission with reference 19/01029/FUL shall not be implemented.**

Reason: In the interests of maintaining the openness of the green belt, further to the National Planning Policy Framework (2019) and Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007).

10 Informatives

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

- 2. Community Infrastructure Levy Liability Notice: You are advised that in this instance the chargeable amount for the Community Infrastructure Levy (CIL) has been calculated as zero under the CIL Regulations 2010 (as amended) due to the specific nature of the use. However, should the nature of the use change then you are advised to contact the Planning and Building Control Group to discuss the requirement for planning permission and CIL liability.**

- 3. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**