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# Appeal Decision

Site visit made on 9 July 2024

**by S Harley BSc(Hons) M.Phil MRTPI ARICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> July 2024**

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**Appeal Ref: APP/Y9507/D/24/3339242**

**Freshfields, Sandy Lane, East Ashling, West Sussex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Simon Clarke against the decision of South Downs National Park Authority.
  - The application Ref is SDNP/23/04624/HOUS.
  - The development proposed is conversion of existing tennis court to padel court including associated fencing and path.
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## Decision

1. The appeal is allowed and planning permission is granted for conversion of existing tennis court to padel court including associated fencing and path at Freshfields, Sandy Lane, East Ashling, West Sussex PO18 9AT in accordance with the terms of the application, Ref SDNP/23/04624/HOUS, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application as originally submitted included lighting. The amended plans considered by the Council omitted lighting from the proposal and this was reflected on the Decision Notice. I have considered the appeal on this basis.
3. The site and surroundings are in the South Downs National Park (the SDNP). The Parties have had the opportunity to comment on the new duty under s245 of the Levelling-up and Regeneration Act 2023 requiring all relevant authorities to "seek to further" the purposes of National Parks. The first of these is to conserve and enhance the natural beauty, wildlife and cultural heritage. Comments received have been taken into account.

## Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area taking particular account of the location in the SDNP.

## Reasons

5. Freshfields is a large, detached, two storey dwelling of modern construction and design on the edge of East Ashling village. Its garden extends behind the house and behind Pipers to the west and contains a variety of outbuildings used in connection with the house. The garden is enclosed by hedges of mixed evergreen and deciduous species. There is a hard surfaced tennis court with mesh fencing some 2.75m high on metal supports in the garden behind Pipers.

The principle of a court for sports in the garden of Freshfields has therefore been established and this is a material consideration.

6. The proposed padel court would replace part of the tennis court. The proposed playing surface would be less than half the existing tennis court surface and the extent of enclosure would be about 60m compared to the existing enclosure of some 105m. Galvanised steel columns would support the enclosure of tempered glass and anti-injury steel mesh fencing which would in part be 3m high and in part 4m high.
7. The National Planning Policy Framework ('the Framework') confers the highest status of protection on National Parks. I also have a statutory duty to seek to further the purposes of the SDNP, which includes conserving and enhancing its natural beauty, wildlife and cultural heritage.
8. The SDNP is the product of an interaction between natural and human processes and different parts have different characteristics so a landscape first approach to development in each area is appropriate. East Ashling is in the character area R1:South Downs Upper Coastal Plain an area characterised by a mixture of pasture and arable fields interspersed by a strong network of hedgerows and small woodlands. Settlements are in the form of nucleated villages set within fields.
9. Much of East Ashling is designated as a Conservation Area (the CA). It is characterised by widespread use of vernacular materials including flint, thatch, clay tiles, red brick, and verdant narrow lanes with low boundary treatments, largely flint. Views into the CA are available from the surrounding highways and public rights of way where the village appears as a collection of vernacular buildings peering through vegetation and surrounded by flat, open farmland
10. Policy SD25 of the South Downs Local Plan 2019 (the LP) directs development to within settlement boundaries to conserve landscape character other than in specified exceptional circumstances. The appeal site is outside any defined settlement boundary and is in the countryside for planning policy purposes. Residential gardens outside built up areas are excluded from the definition of previously developed land in the Glossary to the Framework so the proposal does not benefit from the exception at Policy SD25 (2)(d).
11. Nevertheless the proposal would make good use of part of an existing sports court. There would be a significant reduction in the length of enclosure and the hard surfaced area. This would minimise the developed footprint and reduce the extent of sprawl. This would align with supporting text to Policy SD25 even though the court would be in a residential garden.
12. The padel court would not be visible from Sandy Lane because of the distance from the highway and intervening buildings, trees and hedges. The public right of way from the end of Sandy Lane goes around Pipers, to the side of Freshfields, and across the field behind. Views into the garden of both Pipers and Freshfields, and to the CA, are limited because of the hedges and trees including beech hedges, which hold their leaves during the winter months, and as the gardens and field are at similar flat land levels.
13. Parts of the tops of the proposed padel court enclosure would be visible at a distance above the vegetation. I acknowledge the enclosure would be angular and highly engineered and that vegetation provides less screening when not in

leaf. The enclosure would be mostly glass with a high degree of transparency with a small element of green mesh and would have narrow supports. It would therefore be barely noticeable from the footpath against the backdrop of vegetation and partial views of buildings even during times that vegetation was not in leaf. Nonetheless to accord with the illustrative view shown on the submitted Plan Ref ICV-01 Rev A enhancement and protection of the hedge on the western boundary of Freshfields would be appropriate.

14. The extent of development is very limited; there would be very limited visual intrusion; and there would be mitigation by way of a reduction in the overall extent built development compared to the existing tennis court. This accords broadly with Paragraph 182 of the Framework and would conserve the landscape character of the SDNP so would amount to furthering its purposes.
15. The proposed enclosure materials would harmonise with the large glazed areas and contemporary appearance of Freshfields as permitted by the Council in 2018 when it was recognised that contemporary materials do not necessarily harm the character of the CA. The padel court is not in the CA but it is in its setting. As explained above the visual impact of the proposal from outside the site, including in the views towards the CA, would be barely noticeable. The proposal would therefore have a neutral effect on the CA as a whole and the setting in which it is appreciated, which amounts to conserving the character and appearance of the CA.
16. For the above reasons I conclude the proposal would not be harmful to the character and appearance of the area. I find no material conflict with Policies SD1, SD2, SD4, SD5, SD7, SD9, SD12 and SD15 of the LP or the Framework in terms of the effect on the countryside, the CA or the first purpose of the designation of the SDNP.

### **Other Matters**

17. There are a number of Listed Buildings on Sandy Lane. However, because of the distance, and intervening buildings and vegetation the proposed padel court would have no impact on them or the setting in which they are experienced.
18. The site is within the 12km buffer zone for the Singleton and Cocking Tunnels Special Area of Conservation which are designated as reserves for protected bat species. A Preliminary Ecological Appraisal accompanies the proposal. As lighting is no longer part of the proposal the effect on bats and the SAC would be minimal. However, provision of a bat box and a bird box is recommended to enhance biodiversity.
19. The appellant provided information that compares the likely noise arising from the use of a padel court to that of a tennis court. The Council has not raised an objection to the proposal on noise grounds. The padel court would be further from neighbouring properties than the tennis court and I have seen no evidence that leads me to any different conclusion in respect of noise.

### **Conditions**

20. I have considered the conditions proposed by the Council and where appropriate have amended the wording to more closely align with the National Planning Policy Guidance. As well as the standard condition specifying the time limits for the commencement of development compliance with the approved

plans is necessary to provide certainty. It is more appropriate that the materials used are those specified on the plan accompanying the application, including artificial turf surface, rather than to match the any of the existing buildings. Hedge planting and protection would accord with the submitted plans and secure screening of the proposal in the interests of the character and appearance of the area.

21. In the interests of the tranquillity of the area the use of the padel court should be incidental to the enjoyment of the dwelling house only. In accordance with the terms of the application, in the interests of dark skies and to reduce the impact on bats, no lighting should be installed in connection with the use of the padel court. It is not appropriate to implement the mitigation set out in the whole of the Preliminary Ecological Appraisal as much of this relates to lighting which is no longer part of the proposal. However, to enhance biodiversity it is necessary to install bat and bird boxes as proposed.

### **Conclusion**

22. For the reasons given above the appeal should be allowed.

*S Harley*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with Plans Ref: ICV-01 Rev A; PBP-01 Rev A; PEL-01 Rev A and SLP-01.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Plan Ref PEL-01 Rev A.
- 4) To accord with Plan Ref ICV-01 Rev A no construction of the padel court enclosure shall commence until a full specification of hedge and/or tree planting to supplement the hedge on the west side of the garden to include evergreen species has been submitted to and approved in writing by the National Park Authority. The specification shall include the quantity, size, species, and positions or density of all plants to be planted, how they will be planted and protected and the proposed time of planting. The planting shall be carried out in accordance with the approved specification.
- 5) All planting comprised in the approved details of hedge and/or tree planting shall be carried out in the first planting season following the construction of the padel court enclosure and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The padel court hereby permitted shall not be used at any time other than for purposes incidental to the occupation and enjoyment of the dwelling known as Freshfields; and shall not be used or occupied separately or severed thereafter.
- 7) The development hereby permitted shall be carried out in accordance with the approved ecosystems services statement and retained thereafter.
- 8) No external lighting shall be installed on the padel court or to enable use of the padel court after the hours of darkness.
- 9) The enhancements contained within Part 6.3 of the Preliminary Ecological Appraisal 26 October 2023 shall be implemented in full.

End of Schedule