



Appeal Decision

Site visit made on 3 October 2024

by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/M4320/W/23/3332119

90 Gores Lane, Formby, Merseyside, L37 7DF

- 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 Paul Brereton against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2021/01383.
 - The development proposed is the erection of one padel court with floodlights.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one padel court with floodlights at 90 Gores Lane, Formby, L37 7DF in accordance with the terms of the application, Ref DC/2021/01383, subject to the following 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 drawings : Location Plan; Proposed Site Plan; Dimensions of padel court; Padel Court Dimensions (fig 4); Plan view; Isometric Drawing; Side view Drawing; End view Drawing; Padel court view from South; Padel Court view from the East; Padel Court view from the West;
 - 3) Prior to the first use of the padel court, the acoustic fence (as detailed in Sharps Redmore Acoustic Assessment – Project No 2120607 dated 4 February 2022) shall be constructed. The completed acoustic fence shall be maintained as such for the life of the development.
 - 4) The proposed floodlights shall be installed in accordance with the submitted details and the level of illumination shall not exceed that set out in the lighting spillage drawing at any time.
 - 5) The padel tennis court shall only be used between the hours of 08:00 - 22:00.

Preliminary Matters

2. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have therefore made my decision in accordance with the revised Framework.

Main Issue

3. The main issue is the effect of the development upon the living conditions of nearby residents in Deans Court, with particular regard to noise disturbance.

Reasons

4. The appeal site is located in a largely residential area but is bounded by Formby Cricket and Hockey club to the east. There are residential properties in all other directions including Deans Court to the west, Piercefield Road to the south and Timms Close to the north beyond the existing tennis courts. There is an existing single storey clubhouse which is located between the closest Deans Court properties and the location of the padel court. The proposed padel court would have an all-weather surface with a canopy and would be floodlit. The sides would not be fully enclosed.
5. The application was supported by an acoustic assessment, a further technical note, and responses to the Councils concerns. These documents include details of the background noise levels at the appeal site as well as noise levels from other operational padel courts.
6. At the time of my site visit, there were no sporting activities taking place at the tennis club or the adjoining cricket and hockey club. As such, the site and its surroundings were quiet with little background noise. However, I am conscious that this only represents a snapshot in time.
7. From the evidence before me, the padel court would be around 12 metres from the site boundary to Deans Court and around 25 metres from the habitable room windows of Nos 7 and 9.
8. In my view, without mitigation, the noise generated from activities on the padel court is likely to cause some disturbance to the occupiers of the nearby residential properties, with the most susceptible being Nos 7 and 9 Deans Court. The main noise sources are likely to be from balls hitting the perimeter screen, bats striking the ball, and from player noise. These noise elements are not likely to be constant, and invariably there would be noise impact peaks during games.
9. Noise mitigation measures set out on the noise report includes a 1.8 metre acoustic fence along the boundary between the tennis club and the Deans Court properties (and also to the rear of some of the Piercefield Road properties). An alternative or additional mitigation proposal is described as 'closing off' open gaps on the court's south and west sides with proprietary acoustic blankets. However, the acoustic properties and modelling of this option has not been fully detailed so it is not clear whether this would be sufficient to mitigate noise from the court if this was an alternative. However, as additional mitigation, this would clearly have additional benefits.
10. The noise modelling indicates that the acoustic fence would provide some reduction in noise levels from the padel court to the garden areas of the Deans Court properties. Given the predicted noise levels, I am of the opinion that the level of noise reduction is sufficient to mitigate additional noise arising from the Padel Court. I am also conscious that it would also provide an additional benefit of providing some mitigation from other noise sources such as the hockey and cricket pitches. Whilst this is not a determinative factor, it is a consideration which weighs in favour of the overall proposal.

11. Turning to the noise impact to habitable rooms, particularly at first floor level, the proposed acoustic fence would offer little (if any) mitigation. However, any noise experienced inside of the building would be lower than the modelled figures as the building itself would provide some mitigation. Furthermore, a restriction of the hours of operation of the padel court would prevent unacceptable levels of noise late in the evenings when there would be a greater expectation of lower noise levels for residential amenity purposes. Given the modelled noise levels, I consider that the level of noise which would be experienced internally would not be so excessive to warrant the withholding of planning permission subject to such a hours of operation restriction.
12. Taking all of the above into account, the proposal would not give rise to excessive noise to the occupants of the surrounding residential properties and would accord with Policy EQ4 of the Sefton Local Plan (2017) which amongst other matters seeks to ensure that appropriate measures have been taken to minimise the risks of adverse impacts on amenity from noise pollution and that the impact of noise is not significant or can be reduced to an acceptable level.

Other Matters

13. The appeal proposal is located close to the Green Lane Conservation Area. The Council have not raised any concerns over the impact of the development on the Conservation Area, and from evidence before me and my site visit, I agree that there would be little restriction on views into and out of it. I therefore conclude that its setting would not be harmed.

Conditions

14. The Council have provided a list of condition it considers appropriate in the event that I allow the appeal. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
15. As detailed above, in the interests of the living conditions of the neighbouring residential properties, a condition requiring the installation (and retention) of the acoustic fence as set out in the noise reports is necessary. Conditions limiting the hours of operation of the court and in respect of the level of illumination from the floodlights are also required.

Conclusion

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

Chris Forrett

INSPECTOR