



Appeal Decision

Site visit made on 6 January 2025

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/K3605/W/24/3344581

Sports Ground, Oxshott Village Sports Club, Steels Lane, Oxshott, Leatherhead, Surrey KT22 0RF

- 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 Alasdair Anderson against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/0572.
 - The development proposed is the conversion of an existing tennis court into two padel courts with extended ground works to the west.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties, the revised version has been referenced in this decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of neighbouring residents with specific regard to disturbance from noise.

Reasons

4. Oxshott Village Sports Club (the Club) provides various sports courts and facilities. It is set back behind the residential properties along Steels Lane and surrounded by other residential development. It is an established part of the area and has mature hedging and trees around much of its boundaries.
5. The appeal site is in the corner of the Club's grounds to the rear of several Steels Lane¹ properties. To the side of the appeal site, beyond a strip of trees, is 23 Webster Close.
6. Currently the appeal site is made up of a multi-purpose court with 6 floodlights, a tennis practice wall and a padel court with 4 floodlights. These are surrounded by a leylandii hedge and areas of landscaping within the Clubs grounds, and established planting along the rear boundaries of the aforementioned residential properties. The appellant has confirmed the multi-

¹ Lattice Cottage, The Brown House, Mayfield, and Oakleigh, The Spinney, and Woodlea

purpose court as well as the other tennis courts at the Club can be used for padel ball already.

7. The proposal would not alter the existing hedging and landscaping but would replace the multi-purpose court and practice wall with 2 further padel courts each with 4 floodlights and install a 3m high acoustic fence² between the courts and leylandii hedge. The proposal would increase the number of purpose-built padel courts from 2 to 4. The hours of operation of the proposed courts would be the same as the rest of the Club, Monday to Sunday 8am to 9pm, although the appellant has conceded that the proposed courts could be limited to a 9am start for weekends and bank holidays.
8. On visiting the site and 3 neighbouring properties³, I was able to appreciate the relative tranquillity of the appeal site's surroundings and that the rear gardens of the properties along Steels Lane are screened from road noise by the dwellings themselves so are also relatively quiet. There were 2 games being played during my site visit and I was therefore able to appreciate the sounds attributed to the game in relation to the ambient noise of the area.
9. It is not in question that the Club is a well-established, local asset, with a presumption of some level of noise emanating. It is also generally understood that due to the differences in equipment, court format and speed, amongst other things, the game of padel ball on purpose-built courts can create more noise than tennis and potentially other sports played at the Club. Nevertheless, I observed when visiting the properties on Steels Lane, the ball bouncing off the bat has a very specific, acute sound which is clearly audible over other background noise.
10. The appellant's Noise Impact Assessment⁴ (NIA) shows measurements were taken, but not from where and only for a period of just over 1 hour on a Wednesday. The NIA also states that this "could not be considered a worse-case scenario as the play was relaxed and not overly competitive"⁵. Therefore, the NIA has relied on measurements taken at a separate facility in Bournemouth to project the likely impact of the proposal. However, not only does the NIA fail to specify how the Bournemouth facility is comparable to that proposed, but the measurements again are only taken for a limited period of time and there is no specification of how the courts were being used. In all cases the measurements have been taken during the week not at the weekends or in the evenings, when it is likely the proposed courts and the Club would be busier.
11. The limitations of the chosen time for the assessment are obvious especially as residents are more likely to be home and therefore more effected at evenings and weekends. As such, I do not find that as a basis the NIA can be wholly relied on to be representative of the typical/ long term impact of that proposed.
12. It is appreciated that the NIA has attempted to extrapolate a 'worst case' scenario of the noise the proposed 2 courts could produce, which it states would be below WHO⁶ Guidelines. However as stated above I am unconvinced

² As shown on plan 2591/04 Revision B

³ The Brown House, Oakleigh and Woodlea

⁴ Acoustic Consultancy Report by MSafe Technologies, reference 11564-3 and dated 15 November 2023

⁵ Page 8 of the NIA

⁶ World Health Organisation

that the use of the Bournemouth measurements, provides an accurate representation of that proposed.

13. The appellant proposes an acoustic fence to protect the properties along Steels Lane, and the NIA recommends this to be a height of 4m. Notwithstanding it shown as only 3m on the plans and that there is no such mitigation proposed for the Webster Close property, without any current background or existing noise measurements I am unable to conclude whether the reduction would be acceptable in relation to the existing situation.
14. Further, I note that the Council's Environmental Health Officer recommends that an additional noise assessment should be undertaken once the acoustic fencing has been erected to check whether the fence would reduce the noise levels as suggested and whether additional acoustic mitigation would be required. Due to the uncertainty of the outcome, such additional assessment would not be appropriate to condition.
15. With this in mind, it is clear the information provided is not sufficient to conclude the likely impact of the proposal and whether the proposed mitigation would be sufficient.
16. That the existing padel courts did not require noise attenuation is acknowledged. However, because previous approvals have been issued does not alter the planning merits of the case before me, nor the potential cumulative effect of 4 permanent padel courts at the Club.
17. That the appellant would also look to apply for noise attenuation at a later date to protect the properties on Webster Close and reduce the morning hours is noted. However, there is no mechanism to secure the additional application, nor is it shown how the 1 hour reduction in use would significantly alter the impact of that proposed.
18. Considering my observations during the site visit and the evidence before me, I do not find it has been satisfactorily shown that the proposed development would not have a detrimental effect on the living conditions of the occupants of neighbouring residents with specific regard to disturbance from noise. The proposal would therefore fail to comply with Development Management Plan (DMP) Policy DM5 insofar as it requires new development to appropriate attenuation measures to mitigate the effect from noise.
19. The Council has also referred to DMP Policy DM2 which through good design, requires new development to protect the amenity of adjoining occupiers. However, the wording of this policy, in relation to amenity, seeks development to be designed to offer an appropriate outlook and provide adequate daylight, sunlight, and privacy. It does not refer to noise or disturbance and so is not determinative in my decision.

Other Matters

20. That planning permission 2007/0395 requires the existing leylandii hedging to be maintained at 6m does not alter the planning merits of the case before me. Nor does the language attributed to players when in a heated game. Nevertheless, it is noted that there are other regulatory mechanisms which can be used to reduce anti-social behaviours.

21. The proposal would include 8 6m floodlights and concerns have been raised about their impact on neighbouring properties. However, as they would replace existing floodlights and would not be taller than the existing hedge height, I do not consider this to be harmful. Nevertheless, as with the lack of harm identified in relation to character and appearance, flooding, parking, biodiversity, and trees, these would constitute neutral factors so cannot weigh for or against the proposal.
22. Concerns have been raised in relation to the foul water drainage system in the area. However, the proposal would not alter the Club's existing foul drainage connections. The reduction in tennis and netball provision at the Club has also been noted as have the health benefits of padel as a game and the potential of additional courts bringing in new members to the Club. These matters do not alter my findings on the main issue.

Conclusion

23. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR