

Case Officer: Will Anstey

Recommendation:

Applicant: Eric Dier

Proposal: Variation of condition 2 (plans) of 22/01985/F - the applicant would like to play padel tennis rather than lawn tennis. This requires a change to the design approved in application 22/01985/F

Expiry Date: 1 February 2023

Extension of Time:

1. APPLICATION SITE AND LOCALITY

1.1. The application site comprises an existing manège positioned approximately 78m south of Adderbury Hill Barn, a detached dwelling ("the dwellinghouse"). The manège is level, finished in sand and enclosed by a 2m high close boarded fence. To its north is the dwelling along with two substantial barns/stables. To the east is a dirt track, hedge and arable field. To the south and west is a strip of grass leading to further hedging with pastures beyond.

1.2. The surrounding landscape is reasonably flat and contains predominantly arable fields. Adderbury village lies roughly 550m to the north east. Access to the site is from the north via a long track leading to the house and continuing to the manège.

1.3. The following constraints apply to the site:

- Minor ground water vulnerability
- Radon - Percentage of homes at or above the Action Level (Class 6) Greater than 30%
- Site lies within Adderbury Neighbourhood Development Plan Area
- NERC Act S41 habitat lies 30m to the north of the site, between the site and the house, with a second site 100m to the south
- Public rights of way 101/25/10 and 101/25/20 meet as they cross the access track to the site

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. This application seeks to amend planning permission 22/01985/F to replace the approved lawn tennis court with a padel tennis court.

2.2. The padel tennis court is located in the same position as the approved tennis court but is smaller, measuring 20m by 10m compared to 35m by 17m for the approved court. Instead of the open mesh chain link fencing of the approved tennis court, the padel court would be surrounded by 3m high glass walls supported by a black galvanised steel frame. The padel court is proposed to be sunken into the ground by a metre and the surface will be finished with an artificial grass surface. A more extensive landscaping scheme is proposed around the padel court compared to the approved tennis court.

- 2.3. The swimming pool and mud hut consented under permission 22/01985/F remain unchanged.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:
- 3.2. 22/01985/F – Change of use from an equestrian manege and construction of a hard surfaced tennis court and an inground swimming pool with pool hut - PERMITTED
- 3.3. 18/00842/F - Replacement of all external windows, introduction of one skylight to the existing barn, various alterations to window sizes including enlargement, infill and introduction of new openings, demolishing and rebuilding of the garage block, found to be currently inadequate for residential use without underpinning or rebuilding). Other minor works which fall under permitted development, as confirmed at pre-app stage include, demolition of external pergola structures to kitchen and garage, lowering of external garden wall to allow views, replacement of external pointing and application of a lime wash to neutralise the varying conditions of brickwork - PERMITTED
- 3.4. 18/00507/CLUP - Certificate of Lawfulness of Proposed Development for the demolition of external pergola structures to kitchen and garage, replacement of all external windows, enlargement of some ground floor windows, lowering of external garden wall and replacement of external pointing and application of a lime wash to neutralise the varying conditions of brickwork - WITHDRAWN
- 3.5. 17/00425/CLUE - Certificate of Lawfulness of Existing Use for the construction of outdoor arena and erection of perimeter boarding and use of land and buildings for private equestrian purposes - sui generis – PERMITTED
- 3.6. 16/01955/CLUE - Certificate of Lawfulness of Existing Use / Development for the formation of outdoor arena, erection of perimeter boarding (see plan ref nos. 902-1A and 902-2) and use of land and buildings for equestrian purposes (see plans attached to statutory declaration for Katie Macdonald and red line plan version of plan 902-1A) - REFUSED

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No formal pre-application discussions have taken place with regard to this proposal however Officers advised the agent that to change the approved tennis court to a padel tennis court would require a section 73 application. Officers also informally advised of concerns over the impact of the glass walls on the character of the area due to reflections and the potential impact on protected species, notably birds who may fly into the glass.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **25 January 2023**. The overall final date for comments was **25 January 2023**.
- 5.2. No comments have been raised by third parties

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. ADDERBURY PARISH COUNCIL: No objections
- 6.3. ADDERBURY NEIGHBOURHOOD PLAN GROUP: No comments received

OTHER CONSULTEES

- 6.4. None

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy ESD1: Mitigating and Adapting to Climate Change
- Policy ESD7: Sustainable Drainage Systems (SuDS)
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD13: Local Landscape Protection and Enhancement
- Policy ESD15: The Character of the Built and Historic Environment
- Policy Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy H18 – New dwellings in the countryside
- Policy C8 – Sporadic development in the open countryside
- Policy C14 – Countryside management projects
- Policy C28 – Layout, design and external appearance of new development
- Policy C30 – Design control
- Policy C33 – Protection of important gaps of undeveloped land

ADDERBURY NEIGHBOURHOOD PLAN

- AD1 – Adderbury Settlement Boundary
- AD5 – Adderbury/Milton gap
- AD17 – Building and structures of local importance

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Drainage and flooding
- Ecology

Principle of development

8.2. The principle of a tennis court on the site was established by permission 22/01985/F. This permission remains extant. The changes proposed in this application alter the type of tennis that would be played and the physical appearance of the court; however, the scheme remains a single court in the same position as previously approved. As such Officers are of the view that the changes do not alter the assessment of the principle of development set out in the Officers report for application 22/01985/F. The principle of development therefore remains acceptable.

Impact on Character and Appearance of Area

Policy Context

- 8.3. Paragraph 124 of the NPPF states that: *‘Good design is a key aspect of sustainable development’* and that it *‘creates better places in which to live and work’*. Policy ESD15 of the CLP 2015 is consistent with this aim, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*
- 8.4. Saved Policies C28 and C30 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal to extend an existing dwelling (should be) compatible with the scale of the existing dwelling, its curtilage and the character of the street scene.*

Appraisal

- 8.5. The swimming pool and mud hut approved under application 22/01985/F are unchanged as part of this application. The only changes relate to the tennis court.
- 8.6. As approved the tennis court comprises a green painted macadam surface surrounded by black open mesh chain link fencing extending to a maximum of 2m in height. Officers considered that whilst the tennis court had an engineered appearance that contrasted with the rural character of the area, given the distance to any public viewpoints the level of harm to the character of the area was not likely to be significant and any residual harm could be reasonably mitigated by the proposed landscaping.

- 8.7. The proposed padel tennis court is significant smaller than the approved tennis court; however, it is also surrounded by 3m high glass walling with more substantial metal framing. Though glass is inherently transparent it can also cause significant reflections unlike the approved chain link fencing. Officers consider this would not sit comfortably within the rural landscape, especially given the additional height of the glass walling. This harm is potentially exacerbated by the more substantial framing necessary to support the glazing. Whilst the nearest public viewpoints are a significant distance from the site, given the substantial amount of glass and the visibility of reflections and glare there is potential for harm to the rural character of the area and for this to be more significant than the harm from the chain link fencing.
- 8.8. To mitigate the visual impact of the padel tennis court, the applicant proposes to sink it 1m into the ground. As such the glass walling would only appear to be 2m high when viewed from the surrounding area, thus reducing its visual impact. In addition, the applicant proposes a more substantial landscaping scheme which is possible due to the reduced size of the padel tennis court compared to the approved scheme. This would further filter views of the glass and reduce any reflections from the glazing. Whilst the landscaping is established it is proposed to erect camouflage netting on the glass which would reduce the initial visual impact of the glass. These measures all help to reduce the visual impact of the glass walls.
- 8.9. It is also relevant that under permitted development rights it would be possible to erect a 2m means of enclosure of any material on the site. Though the glass walling is 3m high, as the court would be sunk 1m into the ground it would appear as 2m in height from the surrounding public viewpoints and therefore this is a reasonable comparison.
- 8.10. It is noted that the court would sit inside the existing 2m fencing that surrounds the site. When considering the original application the fencing was reasoned to be an unsightly feature but was considered to be lawful. However, in view of its visual impact it was felt to be inappropriate to condition its retention. Whilst the existing fence would effectively screen the proposed glass walling and is proposed to be retained, it remains that Officers consider it would be inappropriate to condition its retention.
- 8.11. Taken altogether, whilst the padel tennis court is smaller than the approved tennis court, the glass walling it has the potential to have a greater harmful impact than the approved scheme. However, this harm is in part mitigated by sinking the court 1m in the ground and by the enhanced landscaping scheme. When this is considered in conjunction with the permitted development right to erect 2m high means of enclosure, Officers do not consider it would be reasonable to refuse permission for the proposal.
- 8.12. As before, given the importance that the landscaping plays in both softening the impact of the fencing and potentially screening the site should the fence be removed, it is considered necessary to impose a condition seeking further details of the landscaping and a maintenance plan to ensure landscaping is maintained after planting.

Residential Amenity

- 8.13. Policy ESD15 of the CLP 2015 requires new development to deliver '*high quality safe, attractive, durable and healthy places to live and work in*' and to '*Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*'.

- 8.14. Changing the approved tennis court for a padel tennis court may result in a slight increase in noise from the site caused by the ball bouncing off the walls. However, given the absence of close neighbours to the site, Officers are satisfied that the proposed change to the design will not adversely affect residential amenity.

Drainage and flooding

- 8.15. The site is in flood zone 1 and is not known to be in an area of surface water flooding. The padel tennis court is proposed to be finished in a porous surface. As such changing the court type is not considered likely to adversely affect flooding in the area.

Ecology

- 8.16. By virtue of its generally transparent quality, glass structures are often subject to bird strikes. Officers are concerned that the erection of 3m glass walls would be harmful to birds in the area. It is noted, however, that whilst the landscaping establishes, camouflage netting would be placed over the glass. This would reduce the initial harm from the walling. Subsequently the landscaping is shown to be planted in close proximity to the glass walling, which would reduce the perception that birds can fly straight through the glass. Officers still retain some concerns but do not consider that it would be reasonable to refuse the application on this point.
- 8.17. The current proposal includes extra planting over and above the already significant additional planting, primarily in native species, proposed in the extant permission. This would provide a biodiversity net gain on the site which accords with paragraph 180(d) of the NPPF, which encourages developments to integrate opportunities to improve biodiversity into their design. As such, in addition to requiring further details of the landscaping scheme for visual reasons, it is also necessary to secure the net gain in biodiversity that the planting would provide.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. On balance Officers have found that visual and ecological impacts of the proposal to be acceptable and there are no concerns relating to the principle of the development, residential amenity or drainage. As such it is recommended that planning permission is granted.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. The development hereby permitted shall be begun before the 4th October 2025.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans:

Figure 1 – Location Plan
Figure 2 – Block Plan
Figure 3(i) – Elevations
Figure 3(ii) – Layout
Figure 4 – Padel Tennis Court Detail
412/5A – Landscaping to Proposed Pool and Court
412/6 – Section Through Paddle Court
Figure 5 – Dimensions of proposed swimming pool
Figure 6 – Swimming Pool Details
Figure 7a – Mud Building (412/4)
Design and Access Statement June 2022

Reason: To clarify the permission and for the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

(b) details of the camouflage to be used on the padel court walling and for how long it will be installed for.

Such details shall be provided prior to the first use of the development or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The approved scheme shall be implemented by the end of the first planting season following first use of the development.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to deliver biodiversity net gain to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. A schedule of landscape maintenance for a minimum period of 15 years shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. The schedule shall include details of the arrangements for its implementation. The development shall not be carried out other than in accordance with the approved schedule.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Details of all of the external lighting to be installed on the site including the design, position, orientation and screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

6. The development hereby permitted shall be used solely for purposes incidental to the enjoyment of the dwellinghouse, currently known as Adderbury Hill Barn, Milton Road, Adderbury, OX17 3HN.

Reason: Given the functional relationship with Adderbury Hill Barn and to protect the amenities of the occupants of Adderbury Hill Barn and to safeguard the character and appearance of the area and in the interests of sustainable development and in order to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan and Government guidance in the National Planning Policy Framework.

Case Officer: Will Anstey

DATE: 07.02.2023

Checked By: Nathanael Stock

DATE: 08.02.2023
