

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2505	Case Officer:	Anna Tidey
Application Type:	Householder Application		
Proposal:	Proposed tennis court to rear garden.		
Site:	50 Hurst Road, Hassocks, West Sussex, BN6 9NL, , , ,		
Validation Date	17 Jan 2025	Overall Expiry Date:	3 Apr 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	20 Mar 2025
Target Date:	14 Mar 2025	Recommending Officer Signature:	<i>Anna Tidey</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	6
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	26 Mar 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2505

**50 Hurst Road, Hassocks, West Sussex, BN6 9NL, , ,
Proposed tennis court to rear garden.
Wooj Property Ltd**

SUMMARY OF REPRESENTATIONS

12 representations received, 9 from the same neighbouring address, which contain the following points, in summary:

- concerns raised that the HER report provided by Whaleback fails to understand the scope of the planning application and believe that the tennis court will not have any requirement for excavation and believe the tennis court will only be level graded through slight build up where required.
- the Heritage statement has been prepared based upon there being no excavation of ground works for the tennis court when in fact there is huge amount of excavation works required, with a depth of least 2.75m of ground excavation over the entire court.
- the root plates of a row of 7 hornbeam and privet trees on the boundary of Crossways, adjacent to the proposed tennis court encroach onto where the retaining walls will need to be situated. The plan on Appendix 3 of the Arboricultural Implications Assessment report does not indicate the location of these significant retaining walls and encroachment to the root plates.
- Construction will require at least 1.5 metre further access into where the tree root plates are, imposing a significant impact to the root plates, severely damaging the root plates and potentially killing the trees.
- raises serious health and safety/threat to life concerns from tennis ball strikes (singles 3-set match game of tennis is circa 700).
- the proposed tennis court is located approx. 9m from a 5m x 3m greenhouse in Crossways garden. Concern that a tennis ball will smash the glass and cause a serious health and safety/potential threat to life to someone inside it (from 700 possible stray balls).
- retired neighbours spend a considerable amount of time in and around their garden and greenhouse.
- privacy of garden will be affected, contrary to Policy DP29 of the Mid Sussex District Plan.
- The application is unacceptable on risk hazards of safety.
- Several protected species are in habitat in the area for the proposed tennis court development. Natural England standing advice is relevant.
- requests an appropriate assessment under the Habitats Regulations.
- a wildlife pond has been created at No 46 Hurst Road which is inhabited by a number of species including frogs, toads, newts (including the endangered great crested newts) the pond is also frequently visited by bees, dragon flies and damson flies, large bats, barn owls, badgers, hedgehogs, grass snakes, and numerous bird species. Many of these creatures use the surrounding gardens to gain access to the pond and frequently travel across the site where the proposed tennis court is to be installed.
- object to the installation of a tennis court. This will have a dramatic negative impact on the wildlife that utilise the water source for maintenance of life.
- To build the tennis court several well established trees and fruit trees will need to be removed.
- concerned regarding the drainage of the tennis court. During the autumn/winter months and some occasions during the summer the ground is sodden and saturated due to rainfall.
- concerned about the arrangements for drainage following the removal of so much earth and addition of asphalt increasing the risk of flooding to the lower section of the property/ damage due to excess water run-off.
- The proposal introduces unpredictable noise from tennis activities, such as ball impacts and calls, which can disrupt the quiet enjoyment of nearby homes and disturbances and potential damage from tennis balls.
- The development could damage existing natural drainage systems, block scenic views, and intrude on the countryside.
- Object as neighbours of one a group of houses that surround & overlook the garden of No. 50. The owners of each of these houses have strived over the years to collectively create and nurture a unique

setting that embraces and encourages nature, complements the landscape and benefits all those around them.

- the proposal would destroy the communal environment that has collectively been created.
- Objection on following grounds: Residential amenity - relevant District Plan Policy DP29, Character and Design - relevant policy context Para 135 of the NPPF and District Plan Policy DP26, Trees and Ecology - relevant District Plan Policies DP37 and DP38, Flood and drainage -- relevant District Plan Policy DP41, and Development need.
- There is minimal justification for a private tennis court given the abundance of accessible public courts nearby. Within a 1-mile radius, there are 17 pay-as-you-play courts, and within a 7-mile radius, there are an additional 25 courts, many of which are floodlit or indoor facilities.

SUMMARY OF CONSULTEES

Flood Risk and Drainage:

Having reviewed the Flood Risk Assessment we have no objection on flood risk and surface water drainage grounds, subject to the mitigation measures being implemented as stated. Any amendments to the drainage on site can be managed via Building Regulations and Building Control as necessary.

Tree Officer:

The retaining walls will be constructed outside of the Root Protection Areas (RPA) of the trees.

Naturespace/Newt Officer:

It is considered that the proposed development would present a low risk to Great Crested Newts and/or their habitats. However, as the development is within the red Impact Risk Zone, an informative is recommended.

MSDC Environmental Protection:

I have no objection to this proposal as I do not consider there will be any significant adverse impact from noise on local amenity. The safety aspects will be considered separately by the Council's Food and Safety Team.

MSDC Food and Safety Team - Environmental Protection: The Food and Safety Team do not have any enforcement authority for domestic properties, so the following information is an opinion.

My opinion is that tennis is currently played /located in a variety of public areas such as local parks. An example would be Lindfield common - 4 courts located in the public park. There is a public footpath running alongside the length of the courts, domestic gardens run along one side of the courts. Children, dog walkers and football game activities are carried out along the courts and we have not received any complaints to my knowledge or any health and safety incidents or accidents. Tennis is also played in front of spectators in sometimes large arenas, there are no barriers between the court and the spectators to ensure their health and safety. Although the technical ability and control of the ball would be better than if it was a general member of the public.

As there is a greenhouse located in close vicinity to the domestic tennis court can the planning applicant be contacted or conditions put in place to ensure that the applicant has considered the risks and puts in place controls to mitigate those risks e.g. height of court fencing / netting to significantly reduce the likelihood of a ball entering the neighbours garden and hitting the green house or planting tall hedges etc.

The following should also be considered: what is the likelihood of being hit by a tennis ball, and what is the likelihood that the severity of harm would be severe? In my opinion a risk assessment would deem the likelihood to be low and severity of harm to be low.

Archaeological Adviser:

No historic environment objections, subject to a recommended planning condition to require archaeological monitoring and recording.

Further comments: I can confirm that my recommendations continue to be the same as in my initial letter.

Southern Water: No comments or objections.

Ecologist: Recommend approval, subject to conditions.

We note from the Preliminary Ecological Appraisal (CT Ecology, January 2025) that there are no buildings on site and that the trees to be removed have negligible bat roost potential. Therefore we agree that no further surveys for bats are required.

As there may be mobile species on site, such as common amphibians, we support the Precautionary Method Statement for mobile species in Sections 5.8 and 5.9 of the Preliminary Ecological Appraisal (CT Ecology, January 2025), which should be secured by a condition of any consent.

This provides certainty for the Local Planning Authority of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation and enhancement measures identified in the Preliminary Ecological Appraisal (CT Ecology, January 2025) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality.

PARISH COUNCIL OBSERVATIONS

Parish Council: Recommend Approval.

INTRODUCTION

This application seeks planning permission to construct a tennis court in the rear garden of a domestic property located at 50 Hurst Road, Hassocks.

RELEVANT PLANNING HISTORY

DM/24/2504. Two three-storey rear extensions, a single storey rear extension, two hip to gable enlargements, a rear dormer, a single storey side extension, solar panels within south, east and west facing roof slopes, new timber front gates, render to walls and replacement window and doors frames. Approved March 2025.

03/02852/FUL. Proposed change of use from agricultural to garden. Approved January 2004.

CN/025/89. Outline Application - Erection of single dwelling. Refused. September 1989.

CN/016/81. Erection of one dwelling house with garage. Refused May 1981.

SITE AND SURROUNDINGS

No 50 Hurst Road is a detached house, located on an established residential road of mixed house types which links Hurstpierpoint to Hassocks. The property is located in the countryside area between the Built Up Area boundaries of the two villages.

The house benefits from a long back garden, which slopes down from the rear of the house towards open fields to the north. The lower part of the garden was formerly in agricultural use, but along with an adjacent plot was the subject of a change of use application in 2003 to create enlarged garden spaces for Nos 46 and 50 Hurst Road, under planning reference 03/02852/FUL, referred to above.

The gardens of three neighbouring houses at Nos 46 and 52 Hurst Road and Crossways, on Belmont Lane adjoin the eastern and western rear garden boundaries of the site.

Part of the front of the garden, adjacent to the house, falls within a 1 in 1000 year Surface Water Flooding area. This area does not extend over the site in the rear garden where the tennis court is proposed to be constructed.

The site is located within a Red Grade Archaeological Notification Area close to the line of a Roman Road.

APPLICATION DETAILS

This application seeks planning permission for a tennis court with an asphalt surface. The court is to be located wide by 36m long enclosure, surrounded by 2.75m high green pvc coated mesh fencing, with metal posts. A pedestrian access gate is located at the north eastern corner of court, through the perimeter fence.

The submitted plans show that the sloping land will need to be levelled to provide a level surface for the tennis court and at the southern end of the court this will require the construction of a 2.75m high retaining wall.

The plans show the tennis court playing surface will be finished in green and dark green colours. The court will be positioned approx. 4.7m from the western side boundary and approx. 3m from the eastern garden boundary. The submitted plans show the provision of new landscaping between the perimeter court fencing and the side garden boundaries, consisting of cherry laurel shrubs.

During the course of determining the application the applicant's agent has confirmed that the applicant would be agreeable to planting some or all of the following native species, as recommended by the Tree Officer, rather than Cherry Laurels between the side boundaries and the perimeter fencing to the proposed tennis court: Yew, Holly, Hornbeam, Hawthorn, Blackthorn, Field Maple and Hazel. These species are more attractive to wildlife.

The application was accompanied by a Planning statement, which confirms the following points:

- The proposed tennis court includes levelling out of the site at the proposed location. This will be done by cut and fill only (no importation of soils),
- The use of the proposed tennis court will be for private use only.
- the tennis would be permitted development under Part 1, Class E of the General Permitted Development Order, but for the excavation required to level the land and the perimeter fencing, which is over 2 metres high, to prevent balls straying outside the court.
- We propose to plant to the east and west boundaries to assist with screening.

During the course of determining the application it has been supplemented with additional supporting documents, including:

- An Arboricultural Impact Assessment
- Flood Risk Assessment
- Ecological Report
- Heritage Statement

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Hassocks Neighbourhood Plan and Site Allocations DPD.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP12 Protection and Enhancement of Countryside
DP26 Character and design
DP29 Noise, Air and Light Pollution
DP34 Listed Buildings and Other Heritage Assets
DP37 Trees, Woodland and Hedgerows
DP38 Biodiversity
DP41 Flood Risk and Drainage

Site Allocations Development Plan Document

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no policies deemed relevant to this application.

Neighbourhood Plan

Hassocks Neighbourhood Plan -made 24 June 2020.

Policy 1 Local Gaps
Policy 4 Managing Surface Water
Policy 9 Character and Design

Other Material Considerations

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS2 Sustainable Design and Construction
DPS4 Flood Risk and Drainage
DPN4 Trees, Woodland and Hedgerows
DPN1 Biodiversity, Geodiversity and Nature Recovery
DPN7 Noise Impacts
DPC1 Protection and Enhancement of the Countryside
DPB1 Character and Design
DPB2 Listed Buildings and other Heritage Assets

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Planning Policy Framework (NPPF) (December 2024)

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows:

- The Principle of Development
- Design
- Impact on residential amenities
- Impact upon trees
- Archaeological impact
- Flooding and Drainage
- Ecology
- BNG

The Principle of Development

The site for this application lies in an area of countryside, outside the built up areas of Hurstpierpoint and Hassocks, and within a Local Gap between those settlements, as defined in the Hassocks Neighbourhood Plan.

Public views of the site are limited. The nearest public right of way is Bridleway HAS/8C/4, which runs north to south along Belmont Lane to the west of the site. The curtilage and dwelling at Crossways are located between the line of that path and the proposed tennis court site.

The primary objective of the MSDC District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development that does not need to be there. Policy DP12 is relevant. This states:

'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:

o it is necessary for the purposes of agriculture; or
o it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.

Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.

The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character. Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council. Economically viable mineral reserves within the district will be safeguarded.'

The site of the proposed tennis court is within an established garden at the rear of No 50 Hurst Road. The site is within a Local Gap, as defined in the Hassocks Neighbourhood Plan. Neighbourhood Plan Policy 1 - Local Gaps states:

'Local Gaps have been defined and will be safeguarded between:

- a. Keymer/Hassocks and Ditchling;*
- b. Keymer/Hassocks and Hurstpierpoint;*
- and c. Keymer/Hassocks and Burgess Hill.*

As defined on the Policies Map with the objectives of preventing coalescence and retaining the separate identity and amenity of settlements.

Development will be supported within the Local Gap where:

- 1. It is necessary for the purposes of agriculture, or other uses which accord with national and local policies for the use of land and buildings in the countryside; or*
- 2. It is a scheme for housing that is in accordance with MSDP Policy DP6 (1-3) or Policy SD25 of the South Downs Local Plan as appropriate to the location of the proposed development; and it would not compromise individually or cumulatively the objectives and fundamental integrity of the gaps between Hassocks and the settlements of Ditchling, Hurstpierpoint, and Burgess Hill.'*

The proposed tennis court is physically separated from the dwelling. The proposed court would be located over 60 metres from the associated dwelling at No 50 Hurst Road, at the bottom end of the garden.

The proposed plans show the tennis court to be of a standard double court size, with the perimeter fencing set outside the marked out playing court area.

The application has clarified that the tennis court is for private use only, incidental to the use of the house. As such it is considered appropriate to impose a planning condition to limit the use accordingly for private domestic use by the occupants of the property.

Given the overall scale and siting of the proposed development within an established residential curtilage, the proposed private use for the occupants and the siting of the development within a garden surrounded by others, it is considered that the tennis court development will not create a harmful impact upon the rural setting of the property or the wider landscape.

The proposal will therefore accord with District Plan Policy DP12 and Policy 1 of the Hassocks Neighbourhood Plan.

Design

Policy DP26 of the District Plan seeks to promote well located and designed development, to protect valued characteristics of the built environment for their historical and visual qualities and support sustainable communities and create accessible environments. The wording of Policy DP26 states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- * is of high quality design and layout and includes appropriate landscaping and greenspace;*
- * contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- * creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- * protects open spaces, trees and gardens that contribute to the character of the area;*

- * protects valued townscapes and the separate identity and character of towns and villages;*
- * does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- * creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- * incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- * positively addresses sustainability considerations in the layout and the building design;*
- * take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- * optimises the potential of the site to accommodate development.'*

As the site is located in Hassocks the development plan in this part of Mid Sussex consists of the District Plan and the Hassocks Neighbourhood Plan. The Neighbourhood Plan contains Policy 9. This states:

'Development proposals will be supported where they have regard to the Hassocks Townscape Appraisal, and where their character and design takes account of the following design principles as appropriate to the nature, scale and location of the particular proposal:

- 1. Is of high quality design and layout;*
- 2. Contributes positively to the private and public realm to create a sense of place;*
- 3. Respects the character and scale of the surrounding buildings and landscape;*
- 4. Protects open spaces and gardens that contribute to the character of the area;*
- 5. Protects valued townscapes and the separate identity and character of Hassocks, Keymer and Clayton;*
- 6. Does not cause unacceptable harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight, sunlight and security;*
- 7. Creates safe, accessible and well connected environments;*
- 8. Protects existing landscape features and contributes to the village's Green Infrastructure network;*
- 9. Incorporates the use of local materials which are appropriate to the defined Local Townscape Character Area; and*
- 10. Positively responds to the local vernacular character of the defined Local Townscape Character Area.'*

The proposed tennis court is of a standard design with a traditional green surface and green perimeter fencing. Such a development for recreational use is not unusual and the tennis court can be accommodated without significantly impacting upon the amenity space available to the residents in such a large garden.

The overall design of the proposal is considered acceptable. As the court is located to the rear of the property it will not harmfully affect the overall character and appearance of the area or public views from the street.

Consequently the appearance of the proposed works are considered to accord with Policy DP26, Policy 9 of the Hassocks Neighbourhood Plan and with the relevant Design Guide principles.

Impact on residential amenities

District Plan Policy DP26 requires that development *'does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.'*

In addition Principle DG45 in the Design Guide refers to the need to consider privacy of existing and future residents and it is noted that privacy may be affected by the relationship of buildings to each other.

The immediate neighbouring properties are Nos 46 and 52 Hurst Road, and to the rear of the site, Crossways, off Belmont Lane.

The eastern garden boundary with No 46 is open with traditional post and rail fencing and some shrub planting at the bottom end of the garden adjacent to the site of the proposed tennis court. The rear garden at No 46 is open lawn.

The western garden boundary which adjoins the garden with No 52 is screened by evergreen hedges.

At the lower end of the garden, forming the boundary with Crossways, there are a number of hornbeam trees and low hedges growing on the western side of a post and rail fence, which extends to the north western corner of the plot. The rear garden at Crossways contains a greenhouse and associated structures, sited within a post and rail enclosure.

The rear garden boundary is an established field hedgerow.

Given the detail of the proposal and the relationship with the neighbouring properties, it is deemed that no significant harm will be caused by the proposed development to the privacy, outlook, daylight and sunlight of the immediate residents.

A number of representations have been made to the proposal. In particular objections have been made from the occupiers of Crossways with regards to the potential noise disturbance from people using the court to play tennis, including the noise from hitting the balls, and possible damage that might result to the neighbour's greenhouse from stray balls.

Advice has been sought from Environmental Protection Officers with regards to potential noise disturbance and their comments are reported above.

Whilst there could be potential stray tennis balls from tennis players using the court, it is considered that the surrounding 2.75m high fencing, and the distance between the court and the neighbouring gardens, with intervening planting, and the existing planting and boundary fences, will mitigate any potential significant impacts.

Given the relationship and spacing of the adjacent residential properties it is considered that the proposal would not cause significant harm to the amenities of existing nearby residents and therefore accords with the requirements of Policy DP26 of the District Plan, Policy 9 of the Hassocks Neighbourhood Plan and the relevant principles of the Design Guide.

Impact upon trees

The application has been supported by the submission of an Arboricultural Impact Assessment (AIA). This examines the impact of the proposed tennis court construction upon trees growing on and near the site.

Five small, young trees that are growing within the area of the proposed tennis court on the site are identified as being suitable to be relocated by replanting. The AIA report comments upon the potential impact of the proposal upon retained trees. It concludes that there would be no adverse impacts on tree root protection areas, and that there will be no adverse impacts on trees growing both within and those adjoining the site, provided the trees are appropriately protected during the works, as shown on the Tree Protection Plan.

It is considered that provided the works are carried out to accord with the submitted AIA the trees growing on and adjacent to the site will be appropriately protected.

The application is therefore recommended for approval, subject to the imposition of a planning condition to require the development to accord with the measures in the Arboricultural Impact Assessment. With this condition in place the proposed development works will accord with the aims of District Plan Policy DP37.

Archaeological impact

The site falls within a WSCC red grade archaeological designation, which covers an area around the route of a Roman Road.

Policy DP34 of the Mid Sussex District Plan is relevant in the determination of this application and states (in part):

'Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.'

'The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic.'

'Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.'

Paragraph 207 of the NPPF is also relevant and states:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.'

The NPPF contains policy advice for Conserving and Enhancing the Historic Environment. At Paragraph 218 the NPPF states:

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.'

The Council's Archaeology Consultant has reviewed the details contained in the submitted Heritage Statement and considered the details of the construction of the proposed tennis court.

It is considered that the proposed tennis court can be constructed with appropriate mitigation measures to protect any potential historic remains. It is recommended that if the application is approved it should be subject to a condition requiring a programme of archaeological monitoring is secured in accordance with a Written Scheme of Investigation, submitted for approval by the Local Planning Authority. Upon completion of the archaeological fieldwork it is recommended that a Post Excavation Assessment report is submitted for the approval of the Local Planning Authority.

With this condition in place, which the applicant is aware of, and supports, the proposal would comply with the aims of District Plan Policy DP34 and the relevant NPPF guidance.

Flooding and Drainage

The site lies within a 1 in 1000 year Surface Water Flooding area. The application has been supported by the submission of a Flood Risk Assessment (FRA). The FRA details measures to limit surface water flooding, which include: additional planting around the perimeter of the court, the construction of the surface of the tennis court with a permeable surface, swales to direct surface water away from the court and a rainwater harvesting system to be used for irrigation.

The Council's Drainage Engineers have reviewed the submitted Flood Risk Assessment. No objection has been raised on flood risk and surface water drainage grounds, subject to the stated mitigation measures. The Engineers have advised that any amendments to the drainage can be managed via Building Regulations and Building Control.

With the FRA measures in place it is considered that the proposal will not exacerbate local surface water runoff or create drainage issues. The proposal therefore accords with District Plan Policy DP41.

Ecology

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the District Plan relates to Biodiversity and seeks proposals to protect and enhance biodiversity.

Paragraphs 192 to 195 of the NPPF relate to habitats and biodiversity. Paragraph 193 states:

'When determining planning applications, local planning authorities should apply the following principles:

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'*

To support the application a Preliminary Ecological Appraisal has been undertaken and this concludes the following:

- The application site comprises an area of managed grassland with a small number of recently planted trees.
- The site is not subject to any statutory or non-statutory designations.
- The survey area is of value within the immediate vicinity of the site, with the grassland having some, albeit limited, potential to support small numbers protected species including foraging bats and badger with the wider garden boundaries providing some connectivity for more mobile species including bats, great crested newts and badger to pass between residential gardens and grassland in the immediate surrounds of the site.
- a precautionary approach for different elements of the works in relation to badger is considered sufficient to fully safeguard this species group.
- mitigation measures to include precautionary working practices together with habitat enhancement measures are provided.
- based on the survey results habitats are considered to be of importance within the immediate vicinity of the site, providing habitats to support small numbers of protected species, including foraging bats and badger.

- No further surveys are required to inform the planning application, based on the current scope of works, instead adopting a precautionary approach for different elements of the works in relation to badger is considered sufficient to fully safeguard this species group.

The application affects land that is in use as manicured garden lawn, associated with a residential property. The development of the tennis court on this site is acceptable providing the work are undertaken in accordance with the recommendations of the Preliminary Ecological Appraisal, as recommended by the Council's Ecological Adviser. The recommended conditions will ensure that the development will conserve local protected and priority species.

The site is within a red Impact Risk Zone for Great Crested Newts. The Newt Officer has recommended that an Informative is attached to an approval for the proposed development.

On this basis the application complies with Policy DP38 of the District Plan and the relevant NPPF guidance.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This is a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a householder application this development is exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed tennis court is located at the rear of the property and will not adversely affect the character and appearance of the property within the street scene of Hurst Road, the rural setting or impact harmfully upon the Local Gap.

The representations from the neighbouring residents can be addressed with planning conditions to protect the neighbouring amenities. The proposal accords with the aims of District Plan Policy DP26, Neighbourhood Plan Policy 9 and the relevant principles of the Design Guide.

The application is recommended for approval, subject to a planning condition to ensure that the development accords with the Arboricultural Impact Assessment, and includes additional indigenous planting. With this condition in place the proposed development works will accord with the aims of District Plan Policy DP37.

The proposed tennis court can be constructed with appropriate mitigation measures to protect any potential historic remains, providing the works are carried out in accordance with the recommended Archaeological conditions. This will address the policy aims of District Plan Policy DP34.

Consideration has been given to local flooding and drainage issues to accord with the aims of District Plan Policy DP41.

The development of the tennis court will be controlled by the recommendations of the Preliminary Ecological Appraisal to accord with the aims of District Plan Policy DP38 and the relevant NPPF guidance. An Informative is recommended to protect Great Crested Newts.

Consequently this application is recommended for approval.

Decision: Permission

Case Officer: Anna Tidey