

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 13th March 2024

Subject: [DC/2023/01055 - Formby Village Sports Club Rosemary Lane Formby](#)
Proposal: Erection of 1 No. Padel Court

Applicant: Mr David Currie
Padel Tech Ltd **Agent:** Mr David Currie
Padel Tech Ltd

Ward: Harington Ward **Type:** Full Application

Reason for Committee Determination: Called-in by Councillor Richards

Summary

The application seeks approval for the installation of one padel tennis court, and associated development, on an existing area of grassland in Formby. The principle of development is accepted as the proposal provides for appropriate facilities for outdoor sport and recreation, the impact on the character of the area is acceptable due to the existing uses of the land adjacent to the proposal and it has been demonstrated, subject to verification, that the proposal will not have adverse impacts on the living conditions of neighbouring properties and the proposal is acceptable in all other matters. It is therefore recommended for approval with conditions.

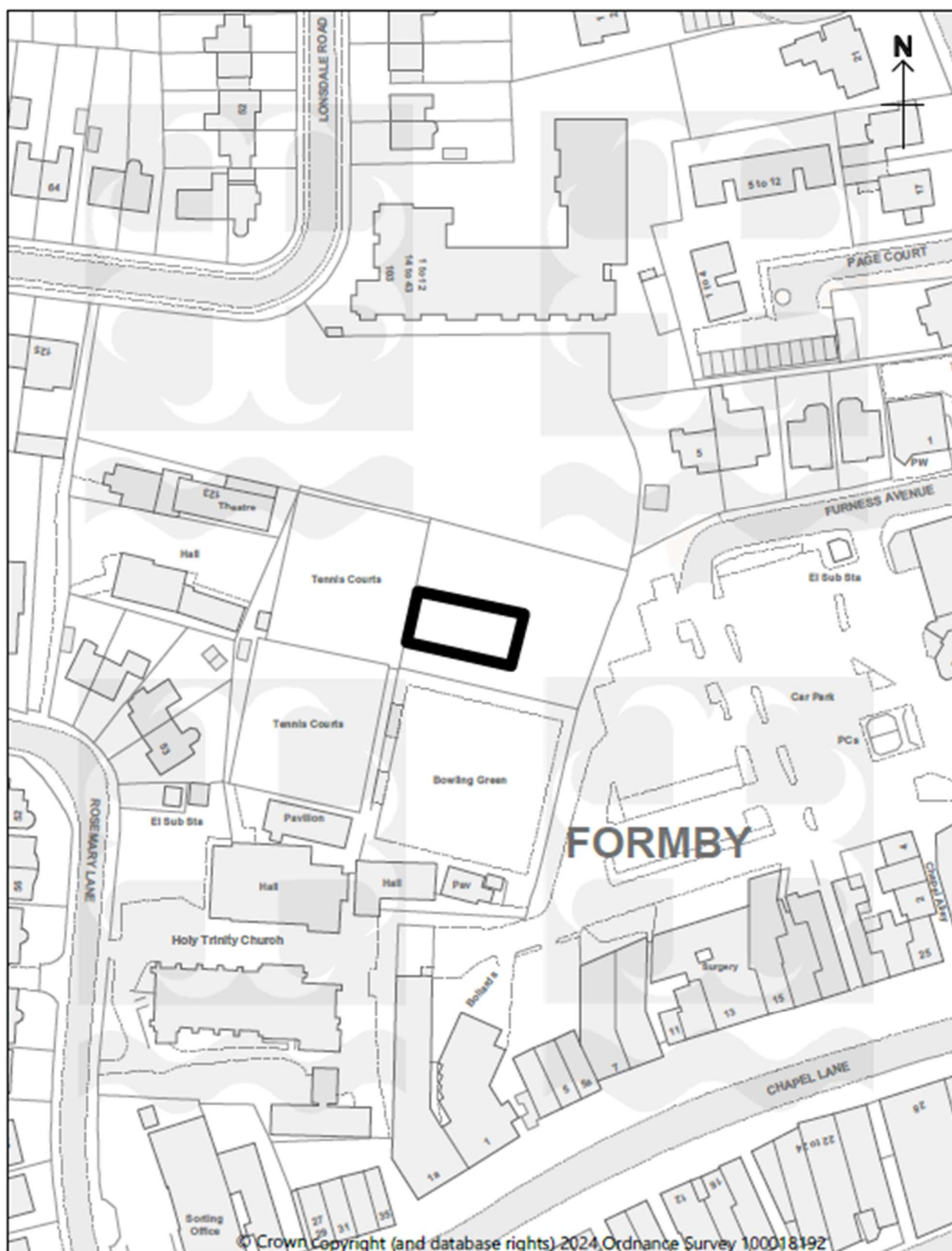
Recommendation: Approve with Conditions

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Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RWCK83NWGU00>

Site Location Plan



The Site

The application site lies in a Local Plan housing allocation, MN2.14 Formby Holy Trinity School, and falls within an area designated as a Local Green Space, O9 Lonsdale Road/Holy Trinity School Site and Tennis Club, in the Formby & Little Altcar Neighbourhood Plan.

History

The application site has planning history relating to its former use as part of the playing fields for a now-demolished primary school. The adjacent sports facilities have recent history for replacement 10m high floodlights to the tennis courts that was granted approval in 2017 (ref DC/2017/00329).

Consultations

Formby Parish Council - Objects to the proposal. In their objection they make reference to the neighbouring Platinum Jubilee Park and concerns that outside events planned for the park (such as outdoor performances by Formby Little Theatre) could be affected by the noise emanating from the padel court, and that the general tranquillity of the park would also be adversely impacted. They have concerns in respect of the use, the design and the hours of operation as to the detrimental noise and light impacts on the living conditions of current and future occupiers of the retirement block of flats on Lonsdale Road, particularly those that face towards the application site. There are also concerns as to the impacts on other neighbouring residential properties to Furness Avenue and residential properties on Chapel Lane. Concerns are raised about potential car parking problems on surrounding roads from user of this court as well as from users of the Sports Club as a whole. There are also concerns that noise and light pollution will affect biodiversity. The Parish Council therefore consider that the proposal is inappropriate being near residential housing.

Environmental Health Manager – No objections following the receipt of an acoustic assessment. The Environment Health Manager recommends a post-approval verification survey, and any mitigation that may be required, could be secured by a condition. In addition, he recommends the hours of use be limited to those as set out in the application form (08:00 – 22:00)

Merseyside Environmental Advisory Service – No objections.

Neighbour Representations

This application has been called-in by Councillor Richards who wishes to see the application is refused with the stated reasons being that the proposal is harmful to residential amenity, harmful to highway safety, harmful to ecology, it is of a poor design quality and it will impact on the quality of life for future occupants.

Formby Parish Councillor D. Irving has provided an individual objection to the proposal that largely echoes the comments made by Formby Parish Council but differs in certain matters such as considering the use to be inappropriate for a town centre location as well as being inappropriate due to its proximity to a community park. The councillor concludes that the proposal is contrary to policy NH1 "Natural Assets" in Sefton's Local Plan as it does not contribute positively to the newly developed community park.

An objection has been made by a resident of Lonsdale Road, Formby. They note the potential impacts of noise from the game of padel tennis as well as from those engaged in the game. While acknowledging potential for some mitigation they consider that given the proximity to residential properties, particularly the retirement flats, that this noise will be an intrusion into people's living conditions. They have concerns that the building of a padel tennis court in clear view of the community park will immediately devalue the park and especially destroy the tranquil environment it currently fosters. They also query the benefits to the community that are a requirement of the lease of the land on a peppercorn basis as the fees for being a member of the club may be prohibitive for many in the community.

Support has been received from a property on York Close, Formby. They don't agree with the comments made by the Parish Council and consider that failing to approve this application will risk the future of the village tennis club. They consider that the parish council are not supporting local business and younger families that would benefit from this investment.

Support has been received from a property on Rosemary Lane, Formby. They make points countering comments made by a parish councillor. They query how dog walkers using the park do not currently affect biodiversity and notes that noise created by dogs barking is more than that created by any of the sport that takes place. They note the presence of a scout club next to the park and sports club that creates more noise and disturbance than sport does and notes that the tennis courts long pre-date the park. They disagree with the comments about lighting and query the cause of parking issues in the area. The resident highlights the benefits of the proposal arising from an increase in sport and fitness activity for all ages, improving health and wellbeing and that the application site uses an area that is subject to anti-social behaviour.

Support has also been made from a property on Queens Road, Southport. They consider the sport has risen in popularity, is no noisier than tennis and encourages children and those in later years to take part in the sport.

Policy Context

The application site lies within an area designated as a Housing Allocation in the Sefton Local Plan which was adopted by the Council in April 2017.

The Formby and Little Altcar Neighbourhood Plan was 'made' (i.e. adopted) on 21st November 2019 and carries full weight in decision making.

Assessment of the Proposal

1. Introduction

1.1. The proposal is for a padel tennis court, comprising the court, surrounds of toughened glass and wire mesh panels, and lighting. The application site is located on part of a grassed square plot of land adjacent to both the existing Formby Village Sports Club/ Formby Village Tennis Club site, a community park comprising mostly grass but laid out with paths and interspersed with a number of trees and a public car park.

1.2. The main issues to consider in respect of this proposal are the principle of development, the impact on the character of the area and the impact on living conditions.

2. Principle of Development

2.1. As the Neighbourhood Plan is more recent than the Local Plan then the green space designation takes precedence over the housing allocation. Therefore Neighbourhood Plan policy ESD1, rather than Local Plan policy MN2, is a key consideration in assessing the principle of development.

2.2. Policy ESD1 requires development to be managed in a manner consistent with Green Belt policy. Paragraph 154 of the National Planning Policy Framework states, in respect of proposals affecting Green Belt, that a local planning authority should regard the construction of new buildings as inappropriate save for given exceptions. As applicable here one of the exceptions relates to the provision of appropriate facilities for outdoor sport and outdoor recreation. It is clear that the proposal will provide for appropriate facilities for sport and so the principle of development can be accepted.

3. Character of the Area

3.1. Views of the proposal will be had from a variety of private residential properties as well as from the existing sports club, the public car park to the east and from the community park. The development will be read against a variety of sports buildings, floodlights, enclosures as well as the scale of neighbouring buildings plus mature trees (dependent upon the vantage point). The character of the immediate surroundings ensures that the proposal will not have a detrimental impact on the character of the area and on this matter the proposal is acceptable.

3.2. The Parish Council and a parish councillor raise concerns that the tranquil character of the community park will be lost by allowing this proposal. The existing park has a variety of informal and formal recreational, leisure and cultural uses that could result in intermittent or consistent noise. Further, the park itself borders a long standing leisure use that itself generates noise. The site is also located next to a well-used public car park that serves Formby District Centre that also generates intermittent noise from vehicles moving, doors opening and closing, deliveries being made etc.

3.3. As such it is considered that the recreational use being provided here will not, in terms of noise impacts, be contrary to the prevailing character of the area.

4. Living Conditions

4.1. *Visual Impacts*

4.1.1. The proposal is sufficiently separated from neighbouring boundaries to gardens and from habitable room windows so that it won't have a significant adverse impact on outlook from habitable room windows or introduce an overbearing development to the detriment of the enjoyment of dwellings or their gardens. On this matter the proposal is acceptable.

4.2. *Light Impacts*

4.2.1. The application is supported by a lighting impact assessment which demonstrates that the proposal is sufficiently separated from neighbouring residential users so as to not give rise to adverse impacts from the proposed lighting.

4.3. *Noise Impacts*

4.3.1. Local Plan policy EQ4 'Pollution and Hazards' requires applications to demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts to amenity from, inter alia, noise so that the impacts will not be significant or they can be reduced to an acceptable level.

4.3.2. The Council's Environmental Health Manager (EHM) has been consulted on this application and identified the absence of a noise assessment for the proposal as being a course of concern given the proximity of neighbouring properties. Following this the applicant submitted a noise assessment (Acoustics Assessment, ref PA030, Peninsular Acoustics) that was then reviewed by the EHM.

4.3.3. The EHM considers that the assessment provides sufficient justification that the impulsive nature of the noise of the padel court will not or will be "just perceptible" to neighbouring residential properties. While noise may be heard it is not considered that this will be to the level that would result in an adverse impact on living conditions of current or future occupiers of neighbouring residential properties.

4.3.4. While considering that the submitted information has sufficiently demonstrated that the proposal would not cause any adverse impacts the applicant has also proposed a condition that would require a post-installation noise survey to be undertaken, prior to the formal commencement of use of the padel tennis court, to confirm that the expected and modelled noise levels are not exceeded.

4.3.5. If noise levels are exceeded then mitigation has been proposed in the form of 2.5m high acoustic fences to be positioned along the northern site boundary and along the

western site boundary (the extents of fencing as shown in Figure 5.1 in the noise assessment), which would be installed prior to the formal opening of the site.

4.3.6. The EHM considers this to be a suitable approach as it secures mitigation in the event of adverse impacts being identified following installation of the court.

4.3.7. It is noted that the mitigation fencing would fall outside of the red-edged application site boundary submitted for this proposal, but as it would still be within land controlled by the applicant - as shown on the blue-edged boundary on the location plan - then it would still be capable of being delivered.

4.3.8. In view of the above it is therefore considered that the proposal is unlikely to cause adverse impacts on the living conditions of neighbouring properties with the use of a condition providing further certainty and control over this matter.

5. Other Matters

5.1. *Highway Safety and Amenity*

5.1.1. Objectors to this proposal have raised concerns as to the current issues or conflicts with car parking to the sports club, and that this additional offering will exacerbate that. However, this application seeks the consent for a single padel tennis court, which is a minor development that is unlikely by itself to give rise to significant harm to highway safety and amenity through increased trip rates or parking pressures.

5.2. *Natural Assets*

5.2.1. A parish councillor stated that in their view the proposal failed to comply with Sefton's Local Plan policy NH1 "Natural Assets" as this development proposal does not contribute positively to the sense of place, local distinctiveness and quality of life that the borough's natural assets provide.

5.2.2. The proposal would provide for a recreation use on land within the control of a long-standing sports club. The introduction of a padel court would contribute positively to the sense of place and local distinctiveness of this particular area while the provision of a different form of tennis within Formby would contribute positively to the quality of life of the Borough. This ensures that the proposal complies with policy NH1.

5.3. *Asset of Community Value*

5.3.1. Following a notice from the applicants the parcel of land where this application is sited was added to the list of Assets of Community Value (ACV) on 16th April 2019, with it to be delisted 16th of April of this year. Local Plan policy HC6 "Assets of Community Value" is applicable and this only allows for loss, or partial loss of an ACV where it has been demonstrated that:

- alternative provision will be made to meet community needs, or
- an existing accessible facility will provide the facility or service that is being lost, or

- there is sufficient existing provision to meet the community's day-to-day needs.

5.3.2. The site forms grassland that is within the control of the applicant that provides informal recreation benefits. The proposal would ensure the continuation of use of part of this site for recreation purposes, a key reason for the applicant making the request for its listing as ACV, and as such does not represent a loss or partial loss of the ACV.

5.3.3. The proposal therefore complies with policy HC6 "Assets of Community Value" of the Local Plan.

6. Conclusion

6.1. For the reasons set out above it is considered that as the proposal is appropriate development to the area, will not detract from the prevailing character of the area, will not cause significant adverse impacts on the living conditions of neighbouring properties and is acceptable in all other aspects that it complies with the aims and objectives of the Formby & Little Altcar Neighbourhood Plan and Sefton's Local Plan.

6.2. The proposal is therefore recommended for approval with conditions.

Equality Act Consideration

Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

Recommendation - Approve with Conditions

Conditions

Time Limit for Commencement

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

Approved Plans

- 2) The development shall be carried out in accordance with the following approved plans and documents:

1:1250 Location Plan

002 Rev E 'Site Plan'

003 Rev B 'Elevation - North & South'

004 Rev B 'Elevation - East & West'

Acoustics Assessment, Peninsular Acoustics, Ref PA0130

Lighting Impacts Assessment, Mewies Engineering Consultants Limited, Ref 27949-LIGH-0401 Rev A

Flood and Drainage Statement, Mewies Engineering Consultants Limited, Ref 27949-FLD-0101 Rev A

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) a) Following the installation of the padel tennis court and associated structures and prior to the commencement of use of the court (other than that required for the undertaking of the survey) a verification survey must be undertaken in line with the measures set out within Section 5.2 of the approved Acoustic Assessment and a copy must be submitted to the Local Planning Authority for approval.
- b) If the verification survey in (a) above demonstrates that the noise from the use of the padel court would exceed the results within Table 4.3 of the approved Acoustic Assessment then a mitigation scheme must be submitted to and approved by the Local Planning Authority prior to the commencement of use of the court (other than that required for surveying and/or considering mitigation).
- c) The mitigation scheme required under (b) above must be installed prior to the commencement of use of the padel court and maintained as such thereafter for the duration of the use.

Reason: So as to ensure no adverse noise impacts on neighbouring residential properties.

Ongoing Condition

- 4) The padel tennis court shall be used between the hours of 08:00 - 22:00 only.

Reason: To safeguard the living conditions of neighbouring occupiers and land users.