

Application No: 21/0753/FH

Location of Site: Hythe Lawn Tennis Club, Twiss Road, The Grove, Hythe, Kent

Development: Retrospective application for a turning area for vehicles at Hythe Lawn Tennis Club

Applicant: Mrs. Hilary Casey

Officer Contact: Robert Allan

SUMMARY

The report considers an application for retrospective planning permission to retain a turning area for vehicles. The report considers how the development impacts upon the character of the conservation area and setting of the Scheduled Monument of the Royal Military Canal, finding that there would be no detrimental impact upon either. There is also considered to be no likely detrimental impact upon the amenity of neighbouring uses, the likelihood of flooding at the site or any impact upon buried archaeology. Opportunity for net biodiversity gain at the site can be secured via condition. As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

- 1.1. The application is reported to Committee as Hythe Town Council have objected on the grounds of visual impact and the loss of ecological habitat.

2. SITE AND SURROUNDINGS

- 2.1. The application site is an area of land located to the south of the Royal Military Canal, a scheduled monument, and within the Hythe Conservation Area. The tennis club is on the south road recreation ground, with the cricket ground to the west and following a recent permission, has eight hard courts all enclosed by high chain link fences. The application site can be seen in figure 1 below. There is a club house to the west of the tennis courts, with a parking area located to the north of this, surfaced with compacted hardcore material. The car park is accessed via the path along the south bank of the canal, which can be accessed from Twiss Road to the east.

- 2.2. The site is in zones 2 & 3 according to the Environment Agency flood risk maps and at low to no risk should flooding occur according to the Council's Strategic Flood Risk Assessment to 2115 when accounting for climate change. The site is in an area of archaeological notification for major planning applications only.

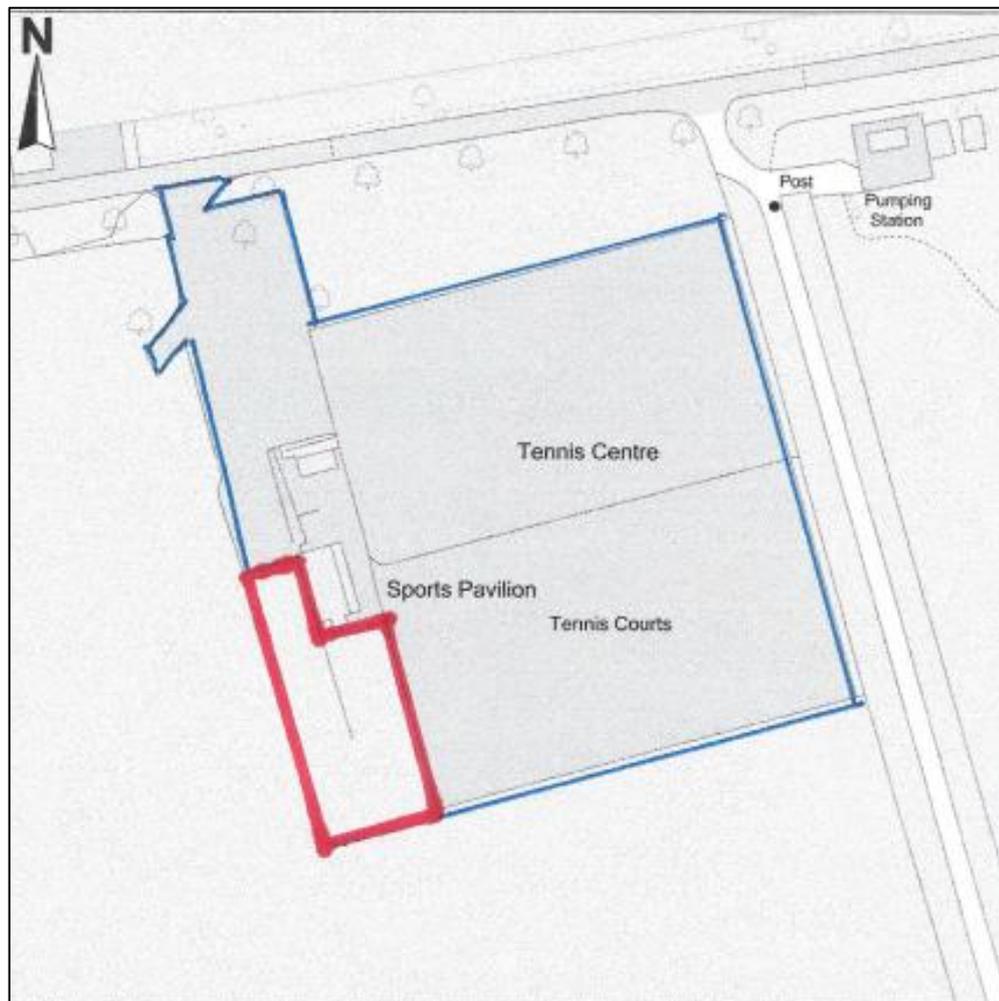


Figure 1: Application site

- 2.3. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 This application seeks retrospective planning permission to retain an area of hardstanding constructed to the along the western and southern sides of the clubhouse. This is formed from compacted hardcore, with sleeper edging and low earth bunds created along the western and southern edges. The bunds are no higher than one metre, with a width not exceeding two metres. The area measures approximately 13.5 metres wide at the southern end, widening to 15 metres south of the clubhouse. The total length including the link to the existing car park area that runs beside the western edge of the clubhouse is 33m. The applicant has proposed planting to the western and southern boundaries of the area.

3.2 The following reports were submitted by the applicant in support of the proposals:

Design Statement

3.3 This document sets out the context for the work that has taken place as well as identifying the materials used within the development.

Heritage Statement

3.4 This document provides further detail on the work that has been carried out and concludes that there are no impacts upon the area or features of interest.

Flood Risk Assessment

3.5 This document acknowledges the location of the application site within flood zone 3 and explains that the hard surface drains after heavy rainfall. It also states that the site has not flooded in living memory.

Construction Statement

3.6 This document explains some of the works that have taken place at the site, with particular reference to the bund that has been created.

4. RELEVANT PLANNING HISTORY

4.1 The site has a history stretching from 1975 covering tennis courts, flood lighting, fencing, storage and a new club house. The main relevant planning approvals for the main site are as follows:

Y14/1050/SH Works to two Elm trees situated within a conservation area comprising removal of south facing laterals to provide 2 metre clearance from adjacent lighting column (T1) and removal of lowest limb overhanging tennis club car park (T2). No objection.

Y13/0856/SH Construction of an extension to the existing car park area, together with associated landscaping works (resubmission of refused application Y12/0593/SH). Approved.

Y12/0892/SH Construction of 4 all-weather macadam tennis courts to replace old grass courts, together with associated floodlighting and landscaping. Approved.

Y12/0593/SH Construction of an extension to the existing car park area, together with associated landscaping works. Refused.

This was refused on the grounds that an uncharacteristic bund feature would have been created, which would have been detrimental to the conservation area and scheduled ancient monument, as well as the

extension giving rise to an increased number of vehicles using the canal path, to the detriment of the tranquillity of the conservation area.

- Y12/0516/SH Felling of two Elm trees situated within a conservation area followed by the planting of a Lombardy Poplar and a Lime tree. No objection.
- Y09/0094/SH Erection of equipment storage shed to replace existing storage shed. Approved.
- Y08/1129/SH Erection of single-storey clubhouse following demolition of existing clubhouse. Approved.
- Y07/0495/SH Installation of flood lights to four tennis courts following removal of existing flood lights. Approved.
- Y05/0106/SH Extension of hard tennis court area. Approved.
- Y04/1106/SH Provision of hard surfacing to existing grass courts together with the replacement of existing boundary fence. Approved.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

The site is wholly within the administrative boundaries of Hythe Town Council.

Hythe Town Council: Object for the following reasons:

- this is not a turning circle
- visual impact on surrounding area
- loss of ecological habitat.

Historic England: Have offered no comments on the application and have deferred to our specialist conservation advice.

Environment Agency: Have no comments as the proposal is assessed as having a low environmental risk.

Local Residents Comments

5.2 One neighbour directly consulted. One letter of support received.

5.3 I have read the letter received. The key issues are summarised below:

Support

- Hythe Cricket and Squash Club have suffered damage to the ground from vehicles turning on their ground;
- Area has always been used for parking but could not be used as a turning area;
- A turning area is required to provide sufficient space for tennis club members.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policy HB1 - Quality Places Through Design

Policy HE1 - Heritage Assets

Policy HE2 - Archaeology

Core Strategy Local Plan (2013)

Policy DSD - Delivering Sustainable Development

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Core Strategy Review Submission draft (2019)

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

6.4 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF)

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 167 - Flood risk

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 - Habitats and biodiversity

Paragraph 194 - Proposals affecting heritage assets

National Planning Policy Guidance (NPPG)

Flood Risk and Coastal Change

Historic Environment

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Visual Impact / Heritage Impact
- b) Archaeology
- c) Other Matters

a) Visual / Heritage Impact

7.2 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention to be given to the desirability of preserving and enhancing the character or appearance of the surrounding conservation area. Scheduled

Monuments are of national importance and are amongst the assets of the highest significance as set out in the NPPF.

- 7.3 The Royal Military Canal (RMC) area has been identified in the Hythe Conservation Area Appraisal as a 'historic feature, amenity space and a barrier between the town and the sea. It provides pleasant walks, seating, shady trees and wildlife' with the character area described as 'peaceful and accessible'.
- 7.4 The Tennis Club predominantly relies upon access from the path along the south bank of the canal, which can be accessed from Twiss Road by vehicle. The construction of the turning area that extends south from the existing car park area, has resulted in the removal of an area of green space which consisted mainly of grass and a length of hedge. The wider site is relatively well-screened, with established vegetation running along Wakefield Walk to the south, Lucy's Walk to the east and Ladies Walk to the west. From the canal path, to the north, views into the site are more readily available, given the elevated position of this route and the relatively open access to the tennis club and its existing car park to the north of the clubhouse. Officers have sought to address the limited views of the hardstanding by the planting of a native hedgerow, which the applicant has agreed to, along the western and southern edge of the turning area. Details of this, inclusive of species mix, timings and maintenance, would be secured by condition.
- 7.5 Given that the hardstanding is directly behind and further away from the public highway than the existing car park, it is not considered that it would have a harmful impact on the character and appearance of the conservation area. It would also be viewed in the context of the tennis courts and sports pavilion which are directly adjacent to the hardstanding and as such it would not have a detrimental impact on surrounding area or the setting of the Royal Military Canal.
- 7.6 The report states that the hardstanding is to be used for as a turning area, although concerns have been raised regarding the visual impact, should it be used for parking. It is considered that the use of the area for parking would not be unacceptable given that it would be set back from the road, be situated next to the existing car park, tennis courts and pavilion and would be partially screened by existing planting. The new hedge that has been agreed since the application was submitted (and the subject of the attached conditions 2 and 3) would also further reduce the visual impact of the hardstanding.
- 7.7 With the planting secured, it is considered that in terms of the visual impact upon the character of the wider street scene and conservation area, and the setting of the Scheduled Monument, there would be no detrimental impact in accordance with policy HB1 of the Places And Policies Local Plan and National Planning Policy Framework paragraphs 130 and 197.

b) Archaeology

- 7.8 The site is within an area of archaeological significance for major applications only and KCC Archaeology were not required to be consulted. It is considered that given the limited nature of the development – the creation of hardstanding through the laying of a geo membrane with type one on top – is unlikely to have impacted on any archaeological remains in an area with limited potential. The retention of the proposal would have no detrimental impact in accordance with policy HE2 of the Places and Policies Local Plan.

c) Other matters

- 7.9 Some concern has been raised with the loss of biodiversity from the site due to the removal of the hedge that was in place. In this respect, the proposal would, if permitted, secure a greater length of hedgerow, with full details to be submitted via condition. This would result in a net benefit for bio-diversity on site and therefore meet the aims of paragraph 180 of the National Planning Policy Framework in securing opportunities to improve biodiversity in and around developments.
- 7.10 In respect of residential amenity, the nearest residential properties lie on the northern bank of the canal (The Avenue) and it is considered that these would be significantly far away from the proposal not to be disrupted in any way by the proposals.
- 7.11 The operation of the cricket club to the west would not be likely to be impacted upon by the proposal, either, with no intrusion into the area it utilises. Overall there would be no detrimental impact upon amenity for neighbouring occupants in accordance with Places and Policies Local Plan policy HB1 and paragraph 130 of the National Planning Policy Framework.
- 7.12 The site is in Flood Zone 3 according to the Environment Agency flood risk maps and the Council's Strategic Flood Risk Assessment identifies that the risk of flooding from the identified sources is low to none. The Environment Agency have reviewed the proposal and consider it to be a low risk, raising no objection and it is considered that there would be no likely impact with regard to flood risk, in accordance with National Planning Policy Framework paragraph 167.

Environmental Impact Assessment

- 7.13 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.14 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

7.15 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

7.16 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.17 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

8.1 It is considered the retention of the turning area as constructed would, in conjunction with a suitably worded condition to secure details of a hedgerow to be planted along the western and southern boundaries of the area, have no detrimental impact upon the visual character of the street scene or conservation area, with no detrimental impact upon the setting of the Scheduled Monument.

8.2 The location of the turning area would preclude any likely impact upon the amenities of neighbouring uses on the north bank of the canal, with its use also unlikely to have any discernible impact upon the cricket club use to the west. There would be no detrimental impact upon the likelihood of flooding or upon buried archaeology and the securing of hedgerow planting via condition would ensure that there would be net biodiversity gain as a consequence of the proposal.

8.3 As a whole it is considered that the proposed development is in accordance with local and national planning policy.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The development hereby permitted shall not be carried out except in accordance with the details shown on the submitted plans: Location Plan dated received 17.05.2021; Planting Plan dated received 26.08.2021.

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

2. Within three months of the date of the planning permission, details of a native double staggered hedgerow to be planted shall be submitted to the Local Planning Authority for approval. These details shall include planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes, numbers where appropriate, be at least 1m in height when planted and an implementation programme. The planting shall take place in accordance with the approved details, unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of enhancing ecology and biodiversity.

3. Upon completion of the approved planting scheme, should part of the hedge be removed, die, be severely damaged or becomes seriously diseased within five years of planting, it shall be replaced in accordance with details approved as part of condition 2 (above) unless otherwise agreed in writing with the Local Planning Authority, and within the next available planting season.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

Appendix 1 – Site Location Plan