

ApplicationNo:71201

NOTICE OF REFUSAL OF PLANNING PERMISSION

Town and Country Planning Act 1990

Town and Country Planning (Development Management Procedure) (England)

Order 2015

To: On Behalf Of:

Mr Kearns, FLH Architectural Design Services @ 1 Young Close, Overstone Gate, Northampton.
NN6 0GD &

Mr Rubenstien. Prestige Padel @ Stand Cricket And Tennis Club Hamilton Road, Whitefield,
Bury M45 7WF

PART 1 - Particulars of Application

Application Number: 71201

Proposal: Erection of 4 no. Padel Courts

Date of Registration: 13/11/2024

Location: Stand Cricket And Tennis Club, Hamilton Road, Whitefield, Manchester, M45 7WF

PART 2 - Particulars of Decision

The Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **REFUSED** for the carrying out of the development referred to in Part 1 hereof for the following reasons:-

Refusal points made by planners:

Refusal Point #1 – Former Use / Impact on Cricket Pitch

“The applicant has failed to demonstrate the benefits of the proposed development for alternative sports and recreation provision that would outweigh the loss of the former use. In addition to this, there is a lack of evidence within the supporting documentation to indicate that the proposal would not have an adverse impact on the existing adjacent cricket pitch use. The proposal would therefore fail to comply with UDP Policy RT1/1- Protection of Recreation provision in the Urban Area and paragraph 104 of the National Planning Policy Framework.”

Point #1 – Response

1.1 – Former Use

We believe there may be a misunderstanding here as there is no existing use of the plot proposed for development. The area is currently a dilapidated former sporting ground that has no use at present (Document A4224-03-0 Existing Plan). It previously held x2nr tennis courts on the site location, meaning that this refusal point would enhance the recreation provision within the Urban area by essentially reinstating a racket sports facility on what was previously tennis courts.

With regards to *UDP Policy RT1/1- Protection of Recreation provision in the Urban Area*:

The policy has multiple listed criteria whereby development is not allowed, where it would result in the loss of:

Reason (loss of)	This application	In breach of criteria?
existing and proposed outdoor public or private recreation facilities	This plot has no existing recreation facility	No
recreation space within settlements located in the Green Belt	This plot has no existing recreation facility and is not located within the Green Belt	No
indoor facilities	Plot is outdoor	No
any other unidentified recreation provision	Plot does not fall within Cricket Pitch's boundaries	No

In addition, *UDP Policy RT1/1- Protection of Recreation provision in the Urban Area* states exceptions may be made where **“sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site”**. Whilst we don't believe we are in breach of the above four 'loss of' criteria so do not need an exception, this proposal enhances the Stand Cricket Club facility through a redevelopment of a small part of their site.

1.2 – Impact on Cricket Pitch

With regards to neighbouring impact, Paragraph 104 of the NPPF states:

*“Existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless: the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location **and** the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”*

In reference to our response 1.1, the planned work is a self-contained facility that does not breach the cricket pitch boundaries nor existing cricketing facilities (incl. practice nets). We present this application with the full support of Stand Cricket Club to assist in their continued provision of cricket and enhancement of the club's overall facilities.

Refusal Point #2 – Information regarding plan features

“The application, submitted plans and supporting information contain insufficient information in relation to the proposed single storey unit, shop, fencing, surfacing, access, and the cumulative impact of the proposed court canopies to enable them to be properly assessed in terms of visual amenity contrary to Development Plan Policies EN1/2 - Townscape and Built Design and JP-P1 Sustainable Places.”

Point #2 – Response

Information was included on the application form, plans, and the Design & Access statement on the materials and construction of the proposed courts, materials used, surface et al within the courts and the construction method to erect such courts.

Regarding the canopy, a specification of the canopy was provided on drawing ‘A4224-10-0 Proposed Canopy Cover - MejorSet Padel Court with Lusotendas One-Pro Cover’ which depicts the information required.

Personal Comment - Applicant: With regards to the single storey unit, this is not integral to the planned works as the courts are the substantive facility, with this unit existing for provision of services (WC etc.) that already exist within the gated / enclosed Stand Cricket Club facility. We would be more than happy to work with the Council and Planning on conditions, amendments or omission of this unit to satisfy any remaining issues.

With regards to visual impact and amenity, this will be addressed below in response to **Point 3**.

Refusal Point #3 – Visual Impact

“The proposed development by virtue of its size, design, materials, mass and scale would be visible in views from Higher Lane, Hamilton Road, Bury New Road, Parklands and Hamilton Road Park within All Saints Conservation Area. The proposal represents an incongruous, urbanising and contemporising development in the conservation area. The proposal would be a wholly unacceptable feature totally at odds with the green open landscape fringed by dense tree coverage in parts and historic residential development and the setting of All Saints church. The size, scale, mass and height of the proposed canopies would have a significant visual impact on the setting of the Grade I Listed All Saints Church. As such the proposal would not preserve or enhance the character or appearance of the conservation area and would be viewed within the setting of the church from the areas identified causing harm to its special architectural interest and aesthetic. The proposal would not comply with the NPPF or UDP Policies EN2/1-Character of Conservation Areas, EN2/2-Conservation Area Control and EN2/3-Listed Buildings.”

Point #3 - Response

Based on the topography, depressed elevation of the site, existence of substantial tree presence lining the site, the existing tennis courts, and the existing structure of the Stand Cricket Club clubhouse, the views of the Padel court will be limited from all angles for both dwellings and roads. In addition, due to the dense tree coverage, views of All Saints Church will not be reduced further than existing. Please see figures and comments below.

View #1 – Higher Lane



Figure 1

As shown in this Figure 1 above, there is only a 15m stretch on Higher Lane from which there are direct views of the planned courts. Otherwise, due to topographical depression of the site, the clubhouse partly obscures the site and the trees (Parklands side, right) completely obscure the site. This is further demonstrated in the below images.

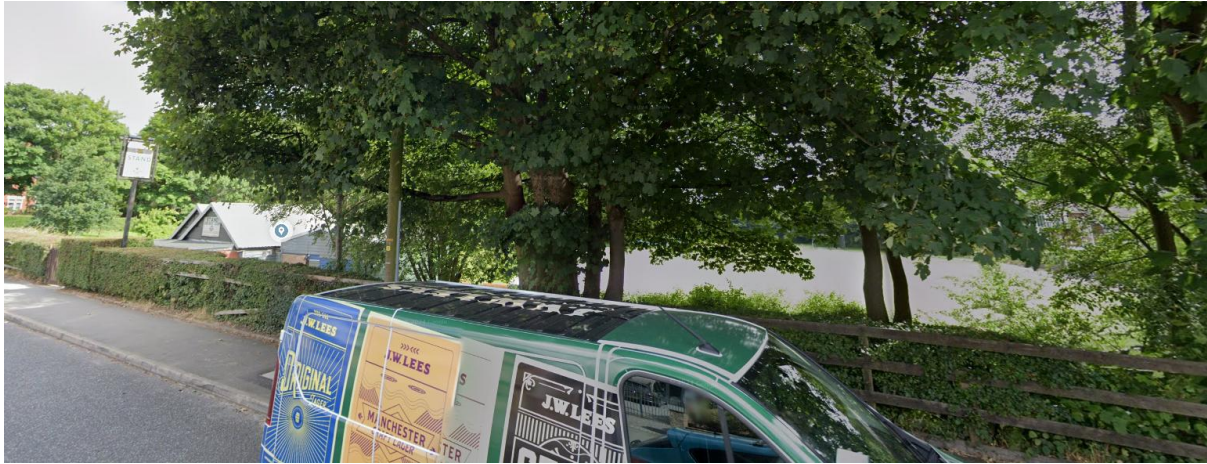


Figure 2 – view from corner of Parklands and Higher Lane, site completely obscured



Figure 3 – site partially obscured



Figure 4 – 15m stretch from which site is not obscured (corner of Higher Lane and Hamilton Road)

View #2 – Hamilton Road

Views of the proposed site are almost fully obscured along most of Hamilton Road due to dense tree cover, topographical depression of the site, viewing angles, and Hamilton Road Park.



Figure 5 – Hamilton Road to planned site

The exception is a short (approx. 20m) stretch to the South-West of No.24 Hamilton Road towards the break in housing, perpendicular to the site and the All Saints graveyard, below.



Figure 6 – Perpendicular to space between No. 24 Hamilton Road and All Saints Graveyard.

We recognise the planned courts will be visible from here, though impact is strongly mitigated by and in form with the existing metal fencing and strong blue colour of the Tennis Courts, and the metal structures of the cricket nets.

View #3 – Bury New Road



Figure 7 – View of site from Bury New Road



Figure 8 – View of site from Bury New Road

As shown by Figures 7 and 8, there is no view of the proposed site from Bury New Road. The existing Tennis Courts are viewable in Figure 7, with the proposed site falling behind the dense trees to the left of this. As there will be no impact on trees surrounding the site, this will remain completely obscured.

View #4 – Parklands

As shown in Figures 9, 10 and 11 below, views of the site are completely obscured by houses No. 7 & 8, whilst views from Parklands House are completely obscured by tree cover. In addition (Figures 12 & 13), the views of All Saints Stand from houses No. 6, 7 & 8 are not obscured by the planned works but are already obscured by tree cover & Hamilton Road.



Figure 9 – View towards the site from East end of Parklands, obscured by No. 7 Parklands.



Figure 10 – View towards the site from the centre of Parklands, obscured by No. 8 Parklands



Figure 11 – View towards the site from the West end of Parklands (Parklands House), obscured by trees & depression



Figure 12 – View of All Saints Stand from Parklands No. 6, 7 & 8 not interrupted by planned site (yellow)



Figure 13 – View of All Saints Stand from Parklands No. 6, 7 & 8 not interrupted by planned site (yellow)

The only stretch of Parklands with a clear view of the site is the middle section (Figure 14), which has no property site-side and two properties (No. 2 & 27) on the other side. There is no view of the site from No. 27. Views from No.2 property are heavily restricted by the layout of the house and the structure of No. 8 Parklands (figure 15), and topographical depression of the site. In addition, the planned courts would be in form horizontally with the existing practice nets and tennis courts.



Figure 14 – Views from the centre of Parklands, with No. 2 behind and offset to the right.



Figure 15 – View from No. 2 Parklands heavily obstructed by No. 8 Parklands. Limited view from one end.

View #5 – Hamilton Road Park

Views of the site from Hamilton Road Park are heavily restricted by extremely dense tree cover. There is no provision within the plans to remove or thin this tree cover. In addition, precedent already exists for the South-West side of Hamilton Road Park to be lined by sporting facilities by way of the existing Tennis Courts, which are in full view of the park and unobstructed by trees. This is demonstrated by Figure 8 above, and Figures 16 and 17 below.

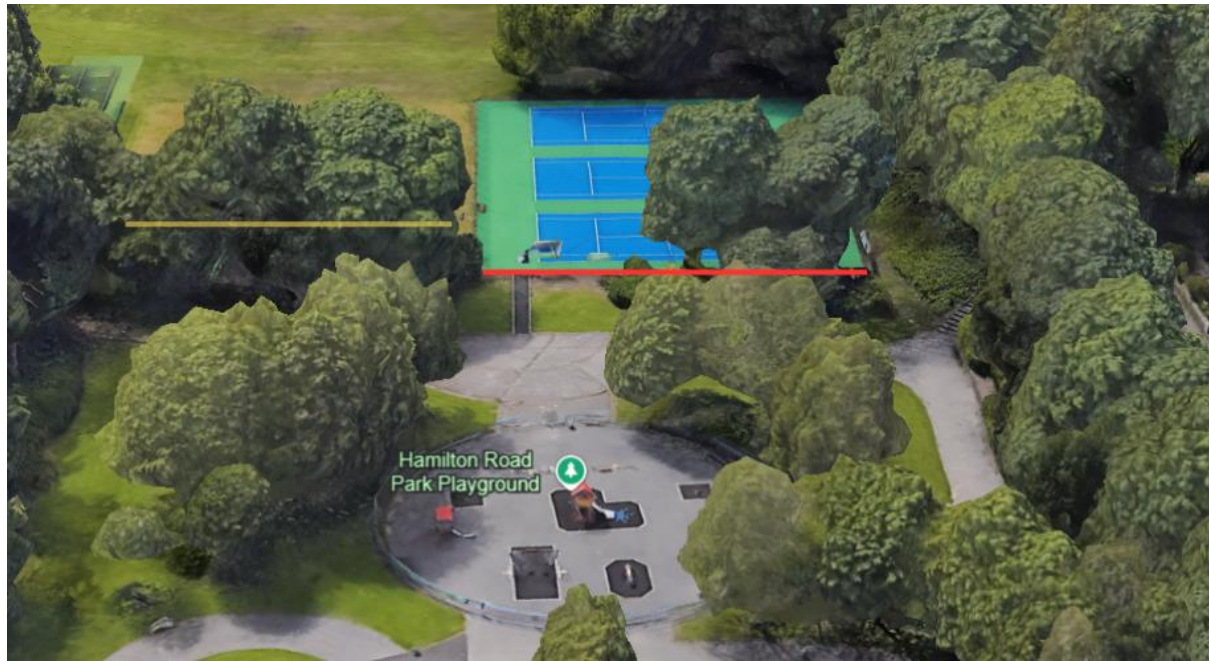


Figure 16 – View from Hamilton Road Park. Extremely dense tree cover over plans (yellow).



Figure 17 – existing view of Tennis Courts, obstructed view of planned Padel courts (left).

Point #3 – Summary and Applicant Comments

Across all five locations of concern, the site is either completely or heavily obstructed from view. Of properties with some view of the site, none will lose any direct lines-of-sight of All Saints Church. In addition, the planned works are located in a uniform line with existing modern structures; cricket nets and fenced tennis courts. The topographical depression of the site (from all four sides), and its distance from the roads and streets of concern further reduce the visual impact.

Applicant Comments: In lieu of meetings or correspondence with the Planning Officer, opportunity was not provided to discuss mitigating actions or join on a site walk-around. However, as long-time local residents, we are aware of the natural and historical significance of the area thus are open to amendments in collaboration with the Council and Planning department to minimise the impact.

We warmly invite Councillors & Planning Officers to discuss potential solutions and mitigations:

1. Camouflaging colour schemes, materials and finishes on
 - a. The court (green instead of the tennis courts' blue)
 - b. The canopy cover (woodland or forestry khaki patterns)
 - c. The fencing (green and brown colours)
2. Overall footprint, potentially reducing from four courts to two.

We'd like to pre-empt potential conditions of this nature with a willingness to heavily consider such amendments. The planned site is to contribute to and enhance our local area, and we'd welcome open dialogue to reach creative solutions for the more substantial challenges.

Refusal Point #4 – Noise and Light Pollution

"The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of likely noise and light pollution from the proposed Padel Courts which are proposed to be open 07:00 - 22:00 daily and have potential to impact on the residential amenity of neighbouring properties and protected species contrary to Development Plan Policies EN1/2 - Townscape and Built Design, EN7/2 - Noise Pollution, EN6/3 - Features of Ecological Value, JP-G8 - A Net Enhancement of Biodiversity and Geodiversity, JP-P1 - Sustainable Places and the Chapter 15 of the National Planning Policy Framework"

Point #4 – Response

4.1 – Light

Documents were submitted regarding to light pollution - 'Padel Lighting Design Calculation Dialux' & a 'Luminaire Photometric Test Report' which were submitted, and no reference was made to them at validation nor during the application process.

Regarding lighting, the padel courts use LED lights and have a maximum 350 lux on the centre of a court with minimal light splay. There will be no anticipated light pollution from the proposed Padel courts. With the proposed canopy over, there will be even less impact of light. In addition, with the lights angled down at 44.8 degrees, plus the distance from all four roadsides and the

topographical depression of the site, there will be minimal to zero light impact on surrounding developments.

Note: These lighting reports have been submitted and accepted in several approved prior planning applications for Padel Courts. If additional information is required for lighting, please can these be specified for any further supporting documentation requirements during consideration of this application?

4.2 – Noise

With regards to noise pollution, this was noted at submission stage. However, a noise impact assessment was not deemed to be required due to:

1. The proximity of dwellings to the proposed Padel facility
2. The precedence of existing tennis courts situated on the site
3. Prior approved planning applications with existing tennis courts not requiring NIAs due to similar dB levels between the two sports.

In addition, there was no NIA requested upon validation nor during the application consideration process.

For the purposes of this appeal, we reference a previous NIA by Clarke Saunders, publicly available and carried out in East Dorset for Padel courts. The layout is similar to our application, with surrounding houses (closer to this site than those on Parklands and Hamilton Road in this application), and roadways.



Figure 18 – Site of reference Noise Impact Assessment

General daytime (0900hrs to 2100hrs) background noise was found to be on average 72dB.

The end-of-court noise during Padel play was found to be on average 49dB to 52dB.

The World Health Organization recommends average noise levels below 55dB to avoid daytime annoyance.

British Standard BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' recommends noise levels below 50dB to avoid daytime annoyance in residential outdoor amenity spaces, i.e. gardens and balconies.

Noise receptors in the gardens of the properties at the south side of the site in Figure 18 (bottom of the image) recorded average levels of 39.7dB to 42.6dB, falling below the recommended daytime limits and below the general background noise generated by an environment with less tree cover and open space than that at Stand Cricket Club.

In addition, these houses are 60m to 14m from the courts respectively.

For this application, the closest residential property on Parklands is 44m at the closest point to the court (No. 6 Parklands), and the closest residential property on Hamilton Road is 70m at the closest point to the court (No. 24 Hamilton Road).

In addition, these findings are consistent with NIAs previously included in approved applications in Bury and fall below the noise limits stipulated by the WHO and BS8233:2014.

Applicant Comments: In keeping with our previous stated willingness to collaborate with the Council's Planning Officers, we would welcome the requirement should it be conditioned to carry out an NIA. However, given the previous stated reasons for omission from the initial application, and no communication for its necessity during validation or the consideration period, we hope you understand why this has not been executed.

Refusal Point #5 – Parking

"The proposed development would result in the intensification of the use of a site with inadequate car parking facilities, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the surrounding residential streets where on-street parking facilities are at a premium at all times of day, which would have a significant impact on existing parking facilities for existing residents and be detrimental to the free flow of traffic and road safety contrary to Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All, JP-C6 - Walking and Cycling, JP-C8 - Transport Requirements of New Development, HT2/4 - Car Parking and New Development and Supplementary Planning Document 11 - Parking Standards in Bury."

Point #5 – Response

We do not anticipate increased parking to be a challenge, in part due to the advantages of the site location and in part due to mitigating actions already planned (and outlined below).

With regards to the site location advantages, the site is:

- Less than 250m from the Whitefield Metrolink Station
- 125m from the Bury New Road bus stop opposite No. 238 Bury New Road.
- Centred within a 2km diameter of the majority of the population of the Whitefield, Unsworth and Besses O' Th' Barn wards – approx. a 30 minute walk for most players that come from the local area.

Given the central community location of the site, we would anticipate a substantial number of players to travel on foot. For those further afield, we would be happy to see conditions on mitigating actions already planned:

- Emphasising non-car travel and utilisation of the close public transport links on our website, our booking system, and in our booking confirmation communications.
- In recognition of parking-oriented objections from Parklands residents, to request no players park on Parklands whatsoever – once again on our website, booking system and booking confirmation communications.

In addition, having duly noted the objections from Parklands residents regarding parking, we do not anticipate players to use Parklands for parking due to the layout of the site.

The site entrance is adjacent to the existing tennis court entrance. With no paved thoroughfare from Parklands to Hamilton Road Park, we anticipate this to be the lowest parking preference for players travelling by car.

Existing parking restrictions on Hamilton Road and Bury New Road ensures minimal disruption to residents.

Applicant Comments: As per our comments to Point #3 regarding visual impact, we would be open to dialogue regarding reducing the court footprint from four courts to two courts, thus halving the parking load.

Refusal Point #6 – Trees

“The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of likely impact on the trees adjacent to the proposed development contrary to Development Plan Policies EN8/2 Woodland and Tree Planting and JP-G7 Trees and Woodland.”

Point #6 – Response

We believe that there is a misunderstanding here as the plans show zero impact on the sites' surrounding trees. In addition, the construction is considered extremely lightweight in the fact that the depth of ring beam is minimal and has little or no effect on the soil below. Indicated details are shown on plans and also included within the Design & Access Statement.

A personal appeal from the applicants

All of the points raised in the initial rejection are appreciated and duly noted, and we also thank the Planning Department for their fast review and response.

We understand the Planning's concerns in consideration of this application, and would be grateful for the opportunity to work through them alongside Councillors and Planning, in conjunction and with recognition to the ongoing plans for the Whitefield Town Centre Plan.

We are three lifelong local residents of Whitefield, with deep ties to the area and an appreciation for its character and residents. In addition, we have full support of Stand Cricket Club in their ongoing commitment to providing a thriving local community and sports facility to the area. The financial benefits to the Club, alongside the enhancement of their sporting offering, will help to guarantee its ongoing success as a priceless part of Whitefield.

We implore recipients of this appeal to open dialogue with us to resolve any outstanding challenges. We hope the majority or all have been addressed to a satisfactory degree, though if any others require collaborative solutions or conditions for approval, please engage with us.