

Item B.1 **08/00421/FUL** **Permit Full Planning Permission**

Case Officer **Caron Taylor**

Ward **Eccleston And Mawdesley**

Proposal **Erection of tennis court in garden,**

Location **The Old Rectory High Street Mawdesley OrmskirkL40 3TD**

Applicant **Mr & Mrs Warburton**

Proposal Erection of tennis court in garden.

Summary This is not a straightforward application and there is a fine line between the use of the land as a tennis court and the relationship with the church graveyard. However, on balance it is not considered that the level of use of the tennis court given that it is a private property will be so detrimental as to warrant refusal of the application, taking into account the uses that the area could be put to by the applicants without any control from the Council. In the past Committee have refused an application for a tennis court contrary to Officer recommendation.

Policy PPG2, DC1

Planning History 04/00983/COU: Change of Use of land from agricultural to domestic curtilage PERMITTED
05/00500/FUL: Construction of tennis court and associated walls, fences and other works REFUSED

Consultations No consultation responses have been received to date, any received will be placed on the addendum.

Representations No representations have been received to date, any received will be placed on the addendum.

Applicant's Case The property is the former Rectory to the Church of St Peters, which became a private house many years ago. The property has a large garden which lies to the east of the house and church and is therefore away from High Street. Included in the curtilage is a piece of grassland, which was incorporated about three years ago under planning permission 04/00983/COU which is now established with a fence and hedge around it to 2m.

In 2005, before the establishment of the garden area, the applicants sought permission for a tennis court under application 05/00500/FUL, which although recommended for approval by Officers was refused by the Development Control Committee who cited Green Belt and impact on the church burial ground as their reasons.

The proposed court will have an all weather surface which is likely to be green in colour with a simple mesh fence on slim metal posts with a maximum height of 2.4m colour coated dark green. There

will be no change in land levels. In terms of siting it will be 12m from the boundary with the burial ground. A substantial hedge and fence separates them.

The use of the tennis court will be restricted by the weather, in addition the applicants could create a grass court without permission. Their garden could have all the normal domestic usage of children playing etc without any planning controls. There is no planning ground to assume that domestic development in the circumstances described could lead to any measurable amenity impact.

Assessment

The land on which the tennis court is proposed was permitted as part of the garden curtilage by 04/00983/COU. This permission took away permitted development rights to this area of land, Class E, which included the laying out of a tennis court, and also the right to erect of fences, walls and gates. A public footpath abuts the area the subject of the application to the north separated by a 2m fence which is a more substantial boundary treatment that has been erected since the previous application.

The site is in the Green Belt and it is clear from reading the report of the application for the curtilage extension, that the permitted development rights were removed to allow the Council to have control over future development of the area. Green Belt policy does allow facilities for outdoor sport and recreation and the use is considered appropriate development in principle. The previously refused application was amended to use mesh panels to enclose the tennis court and this is what is proposed now, which allow views through the panels. It is therefore not considered that the proposal would harm the openness of the Green Belt, nor would it impact on the public footpath.

The main issue with the application proposal is its relationship with the church and whether the proposal would have an unacceptable impact in terms of noise and disturbance to the church/graveyard. This is a material consideration in determining the application. It is newest part of the graveyard that lies adjacent to the proposed tennis court. However, it must also be taken into account that the lawful use of the land is already domestic curtilage and there are a range activities that could take place without any control from the Council, including the marking out of a grass tennis court or football pitch on the land. A hardsurface could also be laid without planning permission as Class F permitted development rights are still in tact. Therefore it is essentially only the fencing that requires permission. In addition other parts of the applicants garden border with the main garden of remembrance and original graveyard and the garden could be rearranged to build a tennis court next to this without planning permission, as the rest of the garden benefits from permitted development rights.

Recommendation: Permit Full Planning Permission Conditions

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Before development hereby permitted is commenced, details of the colour of the proposed mesh enclosure and all weather surface to the tennis court shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the area and in accordance with PolicyGN5 and DC1 of the Adopted Chorley Local Plan Review.

3. There shall be no illumination of the tennis court at any time.

Reason: The site is in the Green Belt and therefore in the interests of safeguarding visual amenity on this site viewed against the background of open countryside and in accordance with PPG2 and policy DC1.
