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# Appeal Decision

Site visit made on 5 September 2023

**by A Wright BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 September 2023**

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**Appeal Ref: APP/U2235/W/23/3316790**

**Marden Sports Club, Maidstone Road, Marden, Kent TN12 9AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Peter Gordon of Game4Padel Ltd against the decision of Maidstone Borough Council.
- The application Ref 22/501761/FULL, dated 4 April 2022, was refused by notice dated 2 September 2022.
- The development proposed is to erect two floodlit padel tennis courts one with canopy.

## Decision

1. The appeal is allowed and planning permission is granted to erect two floodlit padel tennis courts one with canopy at Marden Sports Club, Maidstone Road, Marden, Kent TN12 9AG in accordance with the terms of the application, Ref 22/501761/FULL, dated 4 April 2022, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001 Revision A; 003 Revision A; 004 Revision A; and 005 Revision A.
  - 3) The floodlights hereby permitted shall not be illuminated except between the hours of 09:00 and 22:00 on any day.
  - 4) The floodlights hereby permitted shall conform to the luminaire schedule and luminaire location summary contained in the Lighting Design Document by exled dated 18 January 2023 and shall be maintained in accordance with these details at all times.

## Preliminary Matters

2. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. The Council's decision was based on information contained in a lighting design document dated 27 June 2022 and in the absence of any noise assessment. The appeal submission includes an amended lighting design document dated 18 January 2023 and a noise impact assessment dated January 2023. The amended document now refers to the tilt rather than the roll of the luminaires and both documents provide additional information. As these do not materially change the proposal, I have had regard to them in my determination of the appeal as I am satisfied that the interests of the parties would not be prejudiced.

3. I note that there is another planning application for the erection of floodlighting masts to serve sports pitches at the club (planning application ref 21/503412/FULL) which has not yet been determined. I have limited information on this, and I must determine the current proposal on its merits on the basis of the plans and information before me.

### **Main Issue**

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and light spill.

### **Reasons**

5. The appeal site lies within the grounds of an existing sports club which provides hockey, cricket and tennis facilities, adjacent to a large floodlit all weather pitch. There are also floodlit tennis courts to the north of this. A hedge, mature trees and a railway line separate the site from houses to the south. In addition, there are some dwellings to the north of the club grounds, alongside Maidstone Road.
6. One of the proposed padel tennis courts would be located under a canopy and each of the two courts would be floodlit using four columns approximately 6m high. The appellant indicates the facility would be open from 9am-10pm every day.
7. The proposed courts would clearly result in some additional noise from people using the courts and tennis balls hitting rackets and the surfaces of the courts during play. The predicted noise levels outlined in the noise impact assessment would be below the existing noise levels at the nearest dwellings. The proposal would not lead to these properties exceeding the internal daytime noise limits or the desired limits for outdoor daytime noise set out in the relevant British Standards for acoustic design. The noise levels would also be within Sport England's Design Guidelines for Artificial Grass Pitch Acoustics. Given the proposed opening times, the British Standards for night-time noise would not apply. Therefore, the proposal would not cause unacceptable noise impacts to the residents of the neighbouring dwellings.
8. The additional floodlighting columns would increase the amount of artificial light emanating from the site during hours of darkness when the courts are in use. The amended lighting design document indicates that the light spill from the proposed floodlights would not extend past the railway line and that there would be no effect on the closest dwellings to the south. There are also mature trees to the south of the railway line which provide a visual barrier between these houses and the development site. A condition would ensure that the development would be carried out in accordance with the amended lighting design document and therefore the proposal would not cause unacceptable light intrusion to nearby residents.
9. Overall, I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and light spill. It would comply with Policies SP17 and DM1 of the Maidstone Borough Local Plan 2017. Together, these require developments in the countryside to respect the amenities of occupiers of neighbouring properties by ensuring that they do not result in excessive noise or visual

intrusion, amongst other things. Additionally, it would accord with the National Planning Policy Framework (the Framework) which requires decisions to provide a high standard of amenity for existing users.

10. The Council refers to Policy NE4 of the Marden Neighbourhood Plan 2017-2031 (the MNP) in its reason for refusal. However, this policy relates to biodiversity and habitats and is not relevant to the living conditions of existing occupiers.

### **Other Matters**

11. There are concerns about the impacts of the proposal on biodiversity, in particular on invertebrates and bats. However, as the proposed floodlights would be adjacent to existing ones and their night-time use would be restricted by condition, the development would not harmfully affect wildlife and would comply with Policy NE4 of the MNP.
12. It has been suggested that a landscape and visual impact assessment should have been provided and that the proposal would affect dark skies. The scheme would be located adjacent to an existing floodlit pitch and would be smaller scale than the other floodlit pitches within an existing sports club, and therefore would not harm the landscape or dark skies. The Council does not raise concerns in relation to landscape and visual impacts or effects on dark skies, nor does it find conflict with Policy NE3 of the MNP, and I see no reason to disagree.
13. A third party is concerned that surface water drainage would have the potential to pollute a vulnerable watercourse but there is limited evidence to suggest that this would occur.

### **Conditions**

14. I have had regard to the Council's suggested conditions and considered them against the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. I have made minor amendments, where necessary, to ensure that the conditions comply with these documents and have added a condition relating to compliance with the amended lighting design document.
15. In addition to the standard time limit condition (1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (2). This is in the interest of certainty.
16. Conditions relating to the hours of use of the floodlights (3) and requiring the floodlights to conform to details in the amended lighting design document (4) are necessary to protect the living conditions of the occupiers of neighbouring dwellings and biodiversity.

### **Conclusion**

17. For the reasons given, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

*A Wright BSc (Hons) MRIP*

INSPECTOR