KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	**2024/62/91002/W**
Site Address:	Thongsbridge Tennis & Fitness Club, Miry Lane, Thongsbridge, Holmfirth, HD9 7RY
Description:	Formation of 2 outdoor covered padel tennis courts with 9m high polycarbonate canopy, one uncovered padel tennis court, relocation of modular building and existing outdoor tennis court and associated car parking improvements
Recommending Officer:	Lucy Taylor

DECISION – CONDITIONAL FULL PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

John Holmes

AUTHORISED OFFICER

Date: 24th January 2025

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Officer Report.

Reference: 2024/91002

Location: Thongsbridge Tennis & Fitness Club, Miry Lane, Thongsbridge, Holmfirth, HD9 7RY

Proposal: Formation of 2 outdoor covered padel tennis courts with 9m high polycarbonate canopy, one uncovered padel tennis court, relocation of modular building and existing outdoor tennis court and associated car parking improvements

Site Description.

Thongsbridge Tennis & Fitness Club is located in Thongsbridge, Holmfirth. Access to the site is via the highway of Miry Lane.

The site is located within the Green Belt.

The River Holme runs adjacent to the site and Hagg Dike is located to the north east.

The site is located within EA Flood Zones 2 and 3.

Description of Proposal.

Planning permission is sought for the formation of 2 outdoor covered padel tennis courts with 9m high polycarbonate canopy, one uncovered padel tennis court, relocation of modular building and existing outdoor tennis court and associated car parking improvements.

The site for the two covered courts is now mainly occupied by the mini-tennis courts, which sit between the main building and the car parking area. The covered courts will also extend slightly into the full-size courts, replacing the more southern one.

The proposed uncovered pedal tennis court will replace the existing fitness studio, which sits between the main building and the car parking area.

The fitness studio is to be relocated to the north of the main building.

The proposed car parking area will remain within the existing footprint of the existing surfaced area and will retain the existing surface. The proposal includes formalising some of the existing parking spaces with timber partitions, to be set into the surface for the last meter between bays.

History of Negotiations.

In response to the consultation recevied from KC Policy, a ‘Statement of Very Special Circumstances’ was submitted.

As a result of the consultation responses from KC Ecology and The Environment Agency, revised plans were submitted, to amend the proposed parking area to remain within the existing footprint of the existing surfaced area. In addition, a Preliminary Ecological Appraisal Report was submitted.

Given the nature of the revisions and additional information submitted, it was not considered necessary to re-advertise the application. This is principally because, the description of proposal remained as originally proposed.

Relevant Planning History.

- 92/04009 – Two covered tennis courts. *Granted Conditional Full Permission.*

- 99/92385 – Erection of extension to indoor courts and new clubhouse, re-surfacing of existing courts with enclosure and floodlighting, improvements to site access. *Granted Conditional Full Permission.*

- 2003/90984 – Erection of single storey club house, formation of kids zone courts and amendments to access and parking. *Granted Conditional Full Permission.*

Representations.

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on 13th June 2024.

Ward Councillor, Councillor Brook, submitted comments in relation to the Preliminary Ecological Appraisal and Biodiversity Net Gain requirements.

In response to publicity, four objections were received.

The objections raised the following concerns:

Residential Amenity:

- The area highlighted in the plan for work extends through the existing car park and up the road towards Miry Lane. However, there are no details in the plan of what work is to be carried out here or the impact this will have on the 4 residential properties which boarder the road. Initial concerns are how access to and from the properties will be affected both during the implied works and after.

- The creation of an open air padel tennis court will cause an increase in noise disturbance for local residents. There are no plans to show how the noise will be mitigated / reduced.

Highways:

- The junction from Miry Lane going on to the main road is busy most of the time. Seen many cars struggle trying to pull out of the tennis club car park so how will more cars cope trying to leave there or pull in to the car park without it causing a tailback?

- The roads are already congested, along with the junction, which is already an accident spot.

- The increase in car parking appears to have been planned to accommodate an increase in traffic. The junction joining Miry Lane is already treacherous. There are no details within the plan to indicate how the welfare of other users has been considered. Miry Lane is already dangerous, to actively encourage an increase in the volume of traffic is irresponsible.

- The roads are really busy as it is, Miry Lane is extremely busy, and I see cars struggling to pull out onto this road as it is. How will this work if there's more traffic?

Biodiversity / Ecology / Trees::

- If these new courts are built, what impact will this have on wildlife in the area? What will happen when all the building works are going on?

- Whilst new trees will be planted, it will take years for these to mature.

- Impose on the local woodlands/conservation areas, which could impede on the wildlife.

- If these courts are built, what impact will this have on the wildlife in the area as lot of woods surrounding here.

Other Matters:

- The area highlighted as belonging to the applicant differs from land registry records.

- The sounds from all of this. How long will this take to do and the affects which come with these.

Consultation Responses.

KC Lead Local Flood Authority (formal) – support this application.

KC Highways Development Management (formal) – consider the application to be acceptable on highways grounds.

KC Ecology (formal) – it is recommended that a preliminary ecological appraisal (PEA) is undertaken at the site, to determine the ecological baseline of the site and determine potential impacts that would be brought about by the proposed development.

KC Trees (formal & informal) – after reviewing the newly submitted information, confirm happy with all the plans from a tree's perspective. Upon any grant of approval, include a condition for tree protection fencing.

KC Environmental Health (formal) – raised no objections with conditions and footnotes regarding unexpected contamination and electric vehicle charging points upon any grant of permission.

KC Policy (formal) – concluded that the proposed development would be inappropriate development in the Green Belt and should not be approved expect in very special circumstances. Strong consideration must be given to the impact of the scheme on the adjoining ancient woodland, recognised as a priority habitat, and the impact on the Kirklees Wildlife Habitat Network.

The Environment Agency (formal) – reviewed the Preliminary Ecological Appraisal (PEA) and note the comment on the Block Plan regarding car parking provision. Recommend conditions be included upon any grant of permission relating to:

- undeveloped buffer zone for watercourse, pond or wetland: scheme to be submitted
- England Biodiversity Strategy priority habitat/species protection plan required
- construction and ecological management plan (CEMP)
- flood risk.

Holme Valley Parish Council (formal) – support.

<u>Policy / Legislation.</u>

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The site is located within the Green Belt.

The River Holme runs adjacent to the site and Hagg Dike is located to the north east.

The site is located within EA Flood Zones 2 and 3.

The application site is located within the Holme Valley Corridor Strategic Green Infrastructure Network and within an area with a known presence of bats.

The site is in an area at low risk of ground movement from former mining activity as identified by the Coal Authority.

Kirklees Local Plan:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP21 – Highway safety and access
- LP22 – Parking provision
- LP24 – Design
- LP27 – Flood risk
- LP30 – Biodiversity & geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP32 – Landscape
- LP33 – Trees
- LP52 – Protection and improvement of local environment quality
- LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries

Holme Valley Neighbourhood Development Plan:

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan.

The site falls within Local Character Area 4 - River Holme Settled Valley Floor.

Key landscape characteristics of LCA4 are:

- Framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park.
- Boundary treatments comprised largely of millstone grit walling. The stone walling which runs parallel with Upperthong Lane is representative of local vernacular detailing.
- A network of Public Rights of Way (PRoW) including the Holme Valley Riverside Way which follows the River Holme from Holmbridge through Holmfirth and downstream. National Cycle Route no. 68 follows minor roads through Upperthong towards the centre of Holmfirth before climbing the opposing valley slopes.
- Mill ponds reflect industrial heritage and offer recreation facilities.

Key built characteristics of LCA4 are:

- Mill buildings, chimneys and ponds, including Ribbleden Mill with its chimney, associated mill worker houses and ashlar fronted villas link the area to its industrial and commercial heritage and are a legacy of the area's former textile industry.
- Terraced cottages and distinctive over and under dwellings feature on the steep hillsides with steep ginnels, often with stone setts and narrow roads.
- Narrow winding streets with stepped passageways, stone troughs and setts characterise the sloping hillsides above Holmfirth town centre.
- Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage.
- There are mixed areas of historic and more recent residential and commercial developments.

The policies from the Holme Valley Neighbourhood Development Plan that are relevant to this application are:

- Policy 1 – Protecting and enhancing the landscape character of Holme Valley
- Policy 2 – Protecting and enhancing the built character of the Holme Valley and promoting high quality design
- Policy 9 – Protecting and enhancing local community facilities
- Policy 12 – Promoting sustainability
- Policy 13 – Protecting wildlife and securing Biodiversity Net Gain

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment.

1) **Principle of Development**

Sustainable Development:

Chapter 2 of the NPPF states that: "*Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*, and goes on further to state that objectives should *"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"*

In line with the NPPF, Policy LP1 of the Kirklees Local Plan declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF,"* and goes on further to state *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *"good design should be at the core of all proposals in the district."*

In this instance, the principle of development could be acceptable however, the impact of the development on the Green Belt will be a key consideration, along with its impact on the local landscape and character of the local area, residential amenity, highway safety and all other material planning considerations.

Green Belt:

The site is located within the Green Belt and therefore, the impact of the proposal on the Green Belt is a key consideration. Chapter 13 of the NPPF sets out guidance in relation to developments in the Green Belt, and states that the Government considers the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and permanence. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 154.

Paragraph 154(b) refers to *"the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;"*

This is supported by Local Plan Policy LP56 (facilities for outdoor sport, outdoor recreation and cemeteries). Policy LP56 sets out that *"In the Green Belt proposals for appropriate facilities associated with outdoor sport, outdoor recreation or cemeteries will normally be acceptable as long as the openness*

of the Green Belt is preserved and there is no conflict with the purposes of including land within it. Proposals should ensure that:

a. *the scale of the facility is no more than is reasonably required for the proper functioning of the enterprise or the use of the land to which it is associated;*
a. *the facility is unobtrusively located and designated so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas;"*

Firstly, in terms of the relocation of the existing fitness studio, the studio is proposed to stand on a tarmacked area, directly north of the tennis centre building. Given that the proposed location for this fitness studio is within the defined curtilage of the tennis centre (close to, and tucked behind the existing built form), on an area that is already hardstanding and screened by the adjoining woodland, it is not considered that relocating the fitness studio to this position would have a material impact on openness, or conflict with the purposes of including land within the Green Belt.

Turning to the proposed works to the car park, following revisions, the proposed parking area was amended to remain within the existing footprint of the existing surfaced area, retaining the existing surfacing. The only works proposed within the car park are now limited to the formalisation of parking bays, whereby timber partitions are proposed to be set into the surface for the last meter between each bay. Given the limited nature of these works, it is not considered that they would have a material impact on openness, or conflict with the purposes of including land within the Green Belt. The timber partitions are considered to create an appropriate informal transition between the built environment of the tennis & fitness club and the woodland and riverbank area behind it.

The plans propose the formation of an 'open air' padel court, which would be positioned partially on the footprint of the existing fitness studio. An 'open air' padel is considered to constitute a facility for outdoor sport, thus the exception at NPPF paragraph 154(b) would be applicable in this case. However, the NPPF is clear that facilities must preserve the openness of the Green Belt and must not conflict with the purposes of including land within it. The plans illustrate that the padel courts would be enclosed by fencing that would reach a height of 4 metres, and four 6.58 metre flood lights would be positioned on each corner of the court. Therefore, whilst the principle of forming an open air padel court could be considered an appropriate form of development in the Green Belt under NPPF exception paragraph 154(b), the paraphernalia associated with its operation would harm the openness of the Green Belt, and the introduction of flood lights could work to further urbanise the character of the site within it's Green Belt context, contrary to the purposes of including land within the Green Belt. Inflicting harm to the openness of the Green Belt and conflicting with the purposes of including land within it would render this element of the scheme inappropriate development.

With regard to the two outdoor covered padel tennis courts, given that these courts are to be covered with a polycarbonate canopy, they do not constitute a facility for outdoor sport, thus the exception at NPPF paragraph 154(b) does not apply. The covered padel courts are significant structures at 9 metres high (to the apex of the canopy) and will have a height and bulk greater than the uses that currently exist, which will therefore harm openness. This element of the proposal would be considered to constitute inappropriate development in the Green Belt.

Paragraph 153 of the NPPF sets out that *"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*

As part of this planning application, a 'Statement of Very Special Circumstances' was submitted.

The 'open air' padel court was concluded to present inappropriate development in the Green Belt. The submitted 'Statement of Very Special Circumstances' sets out the following with regard to this element of the proposal:

"Regarding the open air Padel court it is noted that while being acceptable in principle as 'outdoor sport' it must 'preserve the openness of the green belt and not conflict with the purposes of including land within it'. The response goes on to note that the proposals include 6.58m floodlights and fencing up to 4m high. It refers to the 'introduction of floodlights' which 'could work to further urbanise the character of the site'. While it is recognised that this is would not be insignificant in terms of its impact on openness, if the site was already 'open', but it must be seen in the context that this element is partly on the site of a junior practice court, which currently has 3m high fencing, a concrete blockwork rebound wall at one end facing the car park and a number of c.10m high lighting columns, which would be replaced.

In addition the portable fitness studio building will be moving to a less conspicuous location and the proposals when taken as a whole will create a greener, more simplified view along the entire length of the main building, by removing clutter, and greening the frontage, essentially softening the transition to the woodland, and arguably reversing 'urban sprawl' – preventing urban sprawl is one of the key purposes of including land within the green belt."

The two covered padel tennis courts are also considered to constitute inappropriate development in the Green Belt. The submitted 'Statement of Very Special Circumstances' sets out the following with regard to the covered padel courts:

"It is recognised that the two covered padel tennis courts would not constitute 'outdoor sport' if covered with the polycarbonate canopy. Unfortunately, due to the nature of the British climate, the canopy is necessary if these courts are to be viable as an additional facility for the club, and while it is accepted that it might then not meet the definition of 'outdoor sport' it is also believed that the proposed structure should not be seen in the same way as traditional building, and believe that its impact on openness would not be as significant as a more solid building might be. Below 2.0 m height the sides are open – with the inner structure of the courts either being clear glass or an open steel mesh.

Regarding the comment about "height and bulk being greater than the uses that currently exist", that does not apply to everything in the area – at 9.0m high, the proposed canopy is still lower than the adjacent main club building (c.10.5m) and the existing floodlighting columns (c.11.0m tall) several of which would be removed to install the canopy structure.

It could be argued that the nature of the canopy itself, while it undeniably occupies a significant volume, means it does not represent the same bulk that an equivalently sized 'building' would, reducing the potential 'harm' to the openness of the green belt. If this element is still considered to be inappropriate, then the magnitude of any harm is to be set against the benefits that the proposal brings as part of assessing the Very Special Circumstances."

The submitted 'Statement of Very Special Circumstances' also puts forward very special circumstances regarding:

- previously developed land
- Thongsbridge tennis and fitness club and the community
- financial security of the club.

The 'Statement of Very Special Circumstances' summarises the following:
"This document recognises the fact that such development would not normally be considered appropriate within a Green Belt location but is intended to demonstrate that the specific circumstances of this particular proposal mean the benefits outweigh the potential to harm the 'openness' of the green belt and the character of its location that can be attributed to the canopy. A number of measures have been taken in the design, and subsequent amendments to this design, to both minimise and mitigate potential negative impacts, but it is felt that protection from the elements is essential to the success of the scheme."

The proposal would serve an existing facility with the form of development in proximity to existing buildings. The site provides a role / function in relation to sport and recreation and the proposal would contribute to the continued use of the site for this purpose, with the associated benefits in terms of promoting opportunities for healthy activities for users of the site.

Officers consider that the very special circumstances put forward within the submitted ‘Statement of Very Special Circumstances’ demonstrate that there are factors which weigh in favour of the development proposal such that they clearly outweigh the harm of the development to the Green Belt by reason of inappropriateness and any other harm. As such, it is considered that the proposal can, on balance, be supported in principle.

The proposal is considered to therefore comply with Policy LP56 of the Kirklees Local Plan and Chapter 13 of the NPPF.

1) **Impact on Visual Amenity**

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby paragraph 131 sets out that *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

Developments that are considered to conform appropriately with Local Plan Policy LP24 and the design requirements as set out above, are considered to also conform with Policy 2 of the Home Valley Neighbourhood Plan – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design.

Policy 1 of the Holme Valley Neighbourhood Plan HVNP sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA), in this case Local Character Area 4 - River Holme Settled Valley Floor.

Policy 2 of the Holme Valley Neighbourhood Development Plan states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

The proposed covered padel courts and uncovered padel court are considered to be in keeping with the existing character of the site, which has already been established as a tennis and fitness club. In addition, the courts are to be sited on the footprint of the existing fitness studio and existing tennis courts, meaning that they will be read as replacement forms of development within the context of the site.

The fitness studio is to be relocated directly north of the tennis centre building. Given the proposed location for the fitness studio, visibility will be mitigated. Furthermore, the fitness studio will be read in the context of the existing function of the site, as a tennis and fitness club.

Given the considerations of the proposal, in relation to the green belt siting and the impact upon the character of the locality / existing site, it is considered appropriate to include a condition requiring submission of a scheme of details relating to the materials of construction of the development hereby approved. Subject to inclusion of this condition the proposal is considered to be acceptable in this regard.

Following revisions, the proposed parking area was amended to remain within the existing footprint of the existing surfaced area, retaining the existing surfacing. The only works proposed within the car park are now limited to the formalisation of parking bays, whereby timber partitions are proposed to be set into the surface for the last meter between each bay. The timber partitions are considered to create an appropriate informal transition between the built environment of the tennis & fitness club and the woodland and riverbank area behind it.

In turn, the proposal is considered to comply with Policy LP24 of the Kirklees Loca Plan, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and Chapter 12 of the NPPF.

2) Impact on Residential Amenity

Section B and C of LP24 states that alterations to existing buildings should: *"…maintain appropriate distances between buildings'* and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Policy 2 of the Holme Valley Neighbourhood Development Plan states that *'designs should respect the scale, mass, height and form of existing buildings in the locality and the site setting. Development should fit in with and neither dominate nor have a detrimental impact on its surroundings and neighbouring properties'*

Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this case the relevant possible increases could relate to noise, light & odour emissions.

The proposed developments would be sited within the existing parameters of Thongsbridge Tennis and Fitness Club and would be sufficiently separated from the neighbouring premises of Thongsbridge Cricket Club, Thongsbridge Bowling Club, Flamedata Ltd and Unit 9 Albion Mills. The proposed

developments would be separated from the nearest residential properties by approximately 150 metres. As such, it is not considered that the proposed developments would result in any undue impacts of overbearing, overshadowing or overlooking for neighbouring premises or nearby properties.

Furthermore, given the distance of the development from neighbouring occupiers, the noise impact resulting from the development is not considered to be significant in this case.

For the reasons above, the proposed developments at Thongsbridge Tennis and Fitness Club are not considered to cause undue harm to residential amenity. It is therefore considered that the proposal complies with Chapter 12 of the NPPF, LP24 & LP52 of the Kirklees Local Plan and Policy 2 of the Holme Valley Neighbourhood Development Plan.

3) Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principle 15 of the adopted House Extensions & Alterations SPD which seek to ensure acceptable levels of off-street parking are retained are also considered to be of relevance.

As part of the determination of this application, a formal consultation was undertaken with KC Highways Development Management. The Highways Officer made the following comments:

This application is for the formation of three padel tennis courts, the relocation of a modular building and improvements to car parking at an existing tennis and fitness club with an existing vehicular access located off C576 Miry Lane, a 30mph two-way single carriageway tertiary distributor road of approximately 7.3m width. Approximately 20m to the west of the access is the junction with A6024 Woodhead Road.

The proposal site is approximately 320m from stops on a medium frequency bus route.

The access to the site is existing and is shared with approximately 4 other premises who use the driveway to access their off-street parking. There have been no records of "injury accident" collisions at the access junction within the last 5 years and so it is assumed that the junction operates safely. There have been two records of collisions at the C576/A6024 junction, both concerning two wheeled vehicles.

The application site was submitted for pre-application guidance and an informal response from HDM noted that the access driveway through the tennis club to the proposal site had a narrowed pinch point that wasn't wide enough for two cars to pass or allow a safe pedestrian access from the

overflow parking to the north of the site. The proposals are to replace the existing outdoor tennis court with two padel tennis courts, which would take less space and allow for a wider access road to the improved parking area. The proposals would allow for an approximately 6m wide access past the proposed courts which would be suitable for two cars to pass, and this would be an improvement to road safety.

The proposals are also to formalise an overflow parking area to the far north of the site. After formal consultation with the Kirklees Ecologist, the car parking area was reduced from 50 spaces to 35 spaces plus 3 accessible spaces and is to remain as a permeable loose earth surface with the parking spaces demarcated with timber separators. The spaces are to be approximately 5m x 2.5m as described on drawing No. PPF-04 Revision 2.

The number of spaces proposed is not significantly greater than the existing informal space and given the proposals would have only a minor intensification of use we do not consider that the proposals would have a severe impact on the operation or efficiency of the local highway network or on highway safety.

The KC Highways Development Management Officer concluded that the application is acceptable on highways grounds.
In turn, the proposal is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

With regard to parking provisions, whilst officers note the recommendation within the consultation response from KC Environmental Health for the provision of electric vehicle charging points, this was on the basis of the original proposal, which included an increase in the number of parking spaces at Thongsbridge Tennis & Fitness Club. Since the consultation response from KC Environmental Health was received, amended plans have been submitted, to show that the number of parking spaces is to remain as existing, with spaces to just be formalised by timber partitions. As such, given that the number of parking spaces at the site is to remain as existing, officers do not consider it reasonable to impose a condition regarding the provision of electric vehicle charging points.

4) Other Matters

Climate Change:

On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When

determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

It is considered that the resultant development would have an acceptable impact on Climate Change, given the requirements in relation to building regulations. Furthermore, whilst the Environmental Health Team have requested electric vehicle charging infrastructure be incorporated (and secured by condition) in this case it is not considered such measures would be reasonable given the ecological requirements in relation to this proposal and fact the parking area is sought to remain unsurfaced. The installation of EV infrastructure is not, therefore, considered to be necessary in this case given the other considerations applicable to the development proposal. Furthermore, the proposal relates to an existing operation / use of the site, and the proposal would be in conjunction with the continued function of the existing facility rather than see a new facility elsewhere. The existing operation is in an accessible location which can realistically be utilised by non car modes of transport.

Ecology / Biodiversity:

Chapter 15 of the National Planning Policy Framework is relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

The application site is located within an area with a known presence of bats.

The site lies within an area that lies between Hagg Dike and the River Holme. It is possible that the proposed development could result in impacts on both of these watercourses.

As part of this application, a Preliminary Ecological Appraisal has been submitted.

The Environment Agency have reviewed the Preliminary Ecological Appraisal (PEA) and they note the comment on the Block Plan regarding car parking provision, in terms of how this has been amended to remain within the existing footprint of the existing surfaced area.

The Environment Agency have no objections to the final proposal, however, recommend some conditions be included upon any grant of permission relating to:

- undeveloped buffer zone for watercourse, pond or wetland: scheme to be submitted
- England Biodiversity Strategy priority habitat/species protection plan required

- construction and ecological management plan (CEMP)
- flood risk.

With regard to Biodiversity Net Gain, following the amendments to the car park, the proposal is considered to fall under the de minimis exemption, whereby the development does not impact a priority habitat and impacts less than 25 square metres (5m by 5m) of on-site habitat and less than 5 metres of on-site linear habitats. This is because of the proposed siting of the courts and relocated fitness studio, on previously developed land and / or hard surfaced land.

It is recommended the conditions set out by the Environment Agency be included upon any grant of permission. On the basis of inclusion of these conditions the proposal is considered to be acceptable with regard to ecological / biodiversity matters in accordance with the aforementioned policies.

Strategic Green Infrastructure Network / Trees:

Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide. This policy sets out that development should ensure the function and connectivity of green infrastructure is retained / replaced, new or enhances green infrastructure is provided / integrated into new developments. In addition, this policy requires integration of developments into walking / cycling network and providing new links where appropriate and the protection of biodiversity / ecological links. Where the creation of new or enhanced green infrastructure is proposed, provided it does not conflict with other policies within the Kirklees Local Plan policy LP31 sets out that the Council will support such development.

Policy LP33 of the Kirklees Local Plan sets out that *"The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity."*

Following the revised plan for car parking provisions at the site, it was confirmed that the Sycamore tree would not be removed from the site. In addition, the revised proposals ensure that no groundworks are carried out near to the trees to the north of the site.

KC Trees were informally re-consulted on the revised proposals, with the Trees Officer confirming that they are happy with the revised proposals from a tree's perspective, with the inclusion of a condition regarding tree protection fencing upon any grant of approval.

The proposed developments to Thongsbridge Tennis & Fitness Club are not considered to significantly impact upon the strategic green infrastructure network.

Flooding:

The River Holme runs adjacent to the site and Hagg Dike is located to the north east.

The site is located within EA Flood Zones 2 and 3.

As part of this application, a flood risk assessment was submitted, which concludes the following:

"Overall the impacts of the proposal would improve the current situation relating to flood risk, by allowing for increased water storage, moving more vulnerable elements of the existing site and decreasing surface water run off rates. The facilities themselves are compatible with flooding and ancillary areas such as car parking would only be in use when the main facility is open. A procedure would be in place to evaluate the site well in advance of any flooding and is linked to the automated warnings from the EA."

As part of the determination of this application, a formal consultation was undertaken with KC Lead Local Flood Authority, who confirmed that they support the application because the redevelopment of the area is small, and surfaces will be similar/built on existing hardstanding.

The Environment Agency have no objections to the final proposal, however, recommend some conditions be included upon any grant of permission, this includes a condition relating to flood risk.

With the inclusion of the aforementioned condition, it is considered that the proposals would appropriately accord with Policy LP27 of the Kirklees Local Plan.

Contaminated Land:

The site is adjacent to potentially contaminated land (Council's map reference 225/15). Therefore, a condition is recommended upon any grant of approval for unexpected contaminated encountered during any groundworks. KC Environmental Health Officers recommended the unexpected contaminated land condition due to the courts being open to ventilation and not fully enclosed, including the walkway.

5) Representations

In response to publicity, four objections were received.

The objections raised the following concerns:

Residential Amenity:

- The area highlighted in the plan for work extends through the existing car park and up the road towards Miry Lane. However, there are no details in the plan of what work is to be carried out here or the impact this will have on the 4 residential properties which boarder the road. Initial concerns are how access to and from the properties will be affected both during the implied works and after.

- The creation of an open air padel tennis court will cause an increase in noise disturbance for local residents. There are no plans to show how the noise will be mitigated / reduced.

Officer Response: The concerns raised regarding residential amenity have been noted.

Firstly, officer's note the concerns regarding the red line boundary shown on Dwg No. LA_01 Rev 2 and its length to the access of the Tennis Club at Miry Lane. No works are proposed to the access or the road leading to the car parks which serve Thongsbridge Tennis Club. The only external works involving vehicles are those related to the most northern car park, which involves only the formalisation of parking bays with timber partitions. As such, it is not considered that the works to Thongsbridge Tennis & Fitness Club would impact upon residential amenity, including the 4 residential properties which boarder the road. A full assessment of the proposals impacts towards residential amenity is set out within Assessment section 3 of this officer's report, 'Impact on Residential Amenity'.

With regard to the concerns raised regarding noise, as part of the determination of this planning application, a formal consultation was undertaken with KC Environmental Health. No concerns of noise were raised within their consultation response. The proposed courts are to replace existing courts and the existing fitness studio at the site. Therefore, it is not considered that the proposal would significantly change the existing environment of the site with regards to levels of noise. Furthermore the distance of the proposals from neighbouring occupiers is considered to suitably mitigate noise impact.

Highways:

- The junction from Miry Lane going on to the main road is busy most of the time. Seen many cars struggle trying to pull out of the tennis club car park so how will more cars cope trying to leave there or pull in to the car park without it causing a tailback?

- The roads are already congested, along with the junction, which is already an accident spot.

- The increase in car parking appears to have been planned to accommodate an increase in traffic. The junction joining Miry Lane is already treacherous. There are no details within the plan to indicate how the welfare of other users has been considered. Miry Lane is

already dangerous, to actively encourage an increase in the volume of traffic is irresponsible.

- The roads are really busy as it is, Miry Lane is extremely busy, and I see cars struggling to pull out onto this road as it is. How will this work if there's more traffic?

Officer Response: The concerns that have been raised regarding highway safety have been noted. As part of the determination of this planning application, a formal consultation was undertaken with KC Highways Development Management, who concluded that the proposals are acceptable on highways grounds. A full assessment of the proposal with regard to matters of highway safety, and the consultation response from KC Highways Development Management, are set out within Assessment section 4 of this officer's report, 'Impacts on Highway Safety'.

Biodiversity / Ecology / Trees:

- If these new courts are built, what impact will this have on wildlife in the area? What will happen when all the building works are going on?

- Whilst new trees will be planted, it will take years for these to mature.

- Impose on the local woodlands/conservation areas, which could impede on the wildlife.

- If these courts are built, what impact will this have on the wildlife in the area as lot of woods surrounding here.

Officer Response: Concerns for biodiversity, ecology and trees have been noted. A full assessment of the proposal with regard to matters of biodiversity, ecology and trees is included within Assessment section 5 of this officer's report and, as part of the determination of the application, consultations were undertaken with KC Ecology, KC Trees and The Environment Agency. Overall, the application was considered to have an acceptable impact to biodiversity, ecology and trees, with the inclusion of some conditions as imposed by consultees. Full details of the related conditions can be viewed in section 5 of this report, where they are detailed.

Other Matters:

- The area highlighted as belonging to the applicant differs from land registry records.

Officer Response: This has been noted and, upon grant of permission, a footnote shall be included which states *'Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership'.*

- The sounds from all of this. How long will this take to do and the affects which come with these.

Officer Response: This has been noted and, upon any grant of planning permission for this application, a footnote shall be included relating to the construction phases of development.

6) Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other materials considerations. It is considered that the development is acceptable and is therefore recommended for approval.

Recommendation: Approve
Decision Authorisation – Delegated Powers
Application Number: 2024/91002
Recommendation: Approve

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.
   Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
   Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP21, LP22, LP24, LP27, LP30, LP31, LP32, LP33, LP52 and LP56 of the Kirklees Local Plan and Chapters 2, 8, 12, 13, 14 and 15 of the National Planning Policy Framework.

3. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has

confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.
Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

4. Prior to development commencing at the site, tree protection fencing in accordance with bs5837 shall be installed along the southern boundary of the site, where work is proposed in close proximity to protected trees. The bs5837 tree protection fencing shall only be removed once all construction phases of the development have been completed.
Reason: To safeguard the protected trees in close proximity to the proposed developments during the construction phases, in accordance with Policy LP33 of the Kirklees Local Plan.

5. No development shall take place until a scheme for the provision and management of an 8-metre-wide ecological buffer zone alongside the River Holme and Hagg Dike has been submitted to, and approved in writing by, the local planning authority. The scheme shall include a) plans showing the extent and layout of the buffer zone; b) details of any proposed planting scheme (for example, native species); c) details demonstrating how the buffer zone will be protected during development and d) details of how development will be restricted to the hard surfaced areas to ensure this does not exceed 25m^2.

   The submitted scheme shall set out how the buffer zone shall remain free from built development including lighting, and formal landscaping. Thereafter, the development shall be carried out in accordance with the approved scheme which shall be retained thereafter.
   Reason: Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. To protect valuable land alongside the watercourses which is particularly valuable for wildlife, in accordance with policy LP30 of the Kirklees Local Plan, paragraphs 187 and 193 of the National Planning Policy Framework and legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive.

6. No development shall take place until a scheme detailing measures for the protection of bats, both during construction works and once the

development is complete has been submitted to, and approved in writing by, the Local Planning Authority. The submitted scheme shall detail all artificial lighting associated with the development hereby approved and the timetable for implementation. The development shall be carried out in accordance with the approved scheme and retained thereafter.
Reason: To protect bats and their associated habitats in accordance with paragraphs 187 and 193 of the National Planning Policy Framework.

7. No development shall take place until a Construction and Ecological management plan, has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall include a) methods and measures to avoid impacts to the adjacent River Holme habitats; b) methods and measures to avoid impacts to the adjacent Hagg Dike; c) methods and measures to avoid impacts to the adjacent woodland habitats; d) measures to avoid disturbance to wildlife using adjacent habitats and corridors; e) details of any treatment of site boundaries and buffers along water bodies and woodland; f) details of how impacts to wildlife will be avoided such as breeding birds (in line with recommendations of the provided PEA submitted); g) opportunities for site enhancements should also be considered and included (e.g. native planting) and h) timetable for implementation of the plan as set out within parts a – g. The development hereby approved shall be undertaken in accordance with the approved scheme.
Reason: To ensure the protection of wildlife and supporting habitat, whilst securing opportunities for enhancing the site's nature conservation value in line with National Planning Policy and section 13 of the Kirklees Local Plan.

8. The development shall be carried out in accordance with the submitted flood risk assessment (titled "Site Specific Flood Risk Assessment) and the submitted design and access statement (titled "Thongsbridge Tennis and Fitness Club – Proposed Covered Padel Courts – Design and Access Statement") and the following mitigation measures they detail:

- There shall be no ground level raising in Flood Zone 3 as a result of the proposed development.
- The walls of the new padel courts shall be of meshed design.
- There shall be no development within 8 metres of the Main River.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
Reason: To prevent flooding elsewhere in accordance with Policy LP27 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

9. Construction of the buildings, hereby approved, above slab/foundation level shall not commence until details of all external materials including walls, roofs, doors, windows, rainwater goods and colour finishes to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed which shall thereafter be retained.
   Reason: In the interests of visual amenity and impact upon the Green Belt and to accord with Policies LP2, LP24 & LP56 of the Kirklees Local Plan, and policies within chapters 12 and 13 of the National Planning Policy Framework.

NOTE: Contaminated Land
All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received

Open Air Padel Court	LA_PP03	-	23.04.2024
2D Topographical Survey	21286_2DT	A	23.04.2024
General Plan	22/001	v.01	08.05.2024
Block Plan	PPF-04	2	02.12.2024
Location Plan	LA_01	02	02.12.2024
Site Specific Flood Risk Assessment	-	-	23.04.2024
Design and Access Statement	-	-	08.05.2024
Statement of Very Special Circumstances	-	-	06.09.2024
Preliminary Ecological Appraisal	21251b/RW	-	06.12.2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

In response to the consultation for from KC Policy, a ‘Statement of Very Special Circumstances’ was submitted.

As a result of the consultation responses from KC Ecology and The Environment Agency, revised plans were submitted, to amend the proposed parking area to remain within the existing footprint of the existing surfaced area. In addition, a Preliminary Ecological Appraisal Report was submitted.

Report Dated: 22.01.2025