

PLANNING REPORT OBJECTING TO 25/0793/F

CREATION OF PADEL TENNIS FACILITY WITH THE ERECTION OF A NEW CLUBHOUSE; ASSOCIATED WORKS INCLUDING PARKING AND LANDSCAPING

FORMER TENNIS CLUB, BLACKHEATH PARK, BLACKHEATH, SE3 0HB

EXECUTIVE SUMMARY

The proposal to change the use of the site to a commercial Padel Court with significant built form is not in accordance with the Development Plan and there are no material benefits of the proposal that outweigh the conflict.

The site, which has abandoned its previous use, contributes to the openness of the Metropolitan Open Land and is not the subject of any anti-social behaviour. The application should therefore be refused for reasons including, but not limited to:

- **Metropolitan Open Land** – The proposal for extensive covered buildings and the change of use of the land is *inappropriate*, by definition, and has not demonstrated the requisite Very Special Circumstances;
- **Residential Amenity** – The extensive opening hours, 06:00 - 23:00 seven days a week, will result in an unacceptable level of noise and light pollution harmful to the amenity of occupants of nearby residents;
- **Blackheath Park Conservation Area** – The introduction of significant built form to the application site, that has always remained open, in addition to noise and light pollution and the proposed intensity of activity, would result in less than substantial harm to the Conservation Area that is not outweighed by public benefits;
- **Grade II listed No.101 and No.103 Blackheath Park** – For the same reasons as above the proposal would have a significant harmful impact upon the special architectural and historic interest of the listed buildings;
- **Protected Species & Designated Nature Site** – It has not been demonstrated that there would not be a significant adverse impact upon protected bats utilising the site or the adjacent Site of Important Nature Conservation; and
- **Highways and sustainability** – The submitted Transport Assessment underestimates the likely vehicular trip generation and utilises the incorrect baseline. The level of parking provision does not encourage sustainable modes of transport.

As there is no realistic prospect of the application being made acceptable through amendment, given the *in-principle* conflict with the Development Plan, it should be refused without delay.

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1.0 INTRODUCTION

1.1 DCC Planning Ltd have been instructed by the Blackheath Padel Court Action Group to review the submitted planning application and provide professional advice with regards to the compliance of the application, or otherwise, with the Development Plan and other relevant material considerations.

1.2 The application, submitted to the Royal Borough of Greenwich, has been allocated reference number 25/0793/F and seeks planning permission for the “creation of a padel tennis facility with the erection of a new clubhouse; associated works including parking and landscaping”.

1.3 This Report identifies key issues that individually and collectively constitute overriding reasons for the Council to refuse the application, namely the respective impacts upon Metropolitan Open Land, residential amenity, heritage assets, biodiversity and sustainable movement.

1.4 This report is authored by David Cranmer BSc (Hons) MSc MRTPI, a Director of DCC Planning Ltd and a Chartered Member of the Royal Town Planning Institute.

2.0 THE PLANNING USE OF THE SITE

2.1 It is important, at the outset, to establish the existing use of the site and thereafter any fallback position that may be present so that the appropriate barometer for assessment is used.

Abandonment

2.2 The site, which previously constituted a tennis club with a clubhouse and four courts, has had minimal use since 1998 and has remained completely unused since 2002. It has, since this time, been taken over by vegetation and hosted no activity of any nature. Despite community efforts to engage with the owners to maintain the site, a fire broke out in 2021 which resulted in the Clubhouse being destroyed.

2.3 A Member of the Blackheath Padel Court Action Group recalls that:

“We pleaded with them to secure the site and they never did a thing”

2.4 Since the fire in 2021 there has, therefore, been no development present on the application site in any form. The progressive degradation of the site can be clearly seen through Google Earth imagery:



2003



2006



2010



2013



2015



2017 (credit: personal collection of Blackheath Padel Court Action Group)



2018



2019



2020



2021



2022



2023



2025

2.5 The previous use of the land as tennis courts (Planning Use Class F2) has therefore been abandoned as, using the definition in *Hartley v MHLG* [1970] 1QB 413, it has “remained unused for a considerable time, in such circumstances that a reasonable person might conclude that the previous use had been abandoned”.

2.6 The condition of the site meets the four criteria of abandonment, as established in *Trustees of Castell-y-Mynach Estate vs Taff-Ely BC* [1985] JPL 40:

- *The period of non-use* – “The site has seen minimal use since 1998 and has remained closed and vacant since late 2002” ... “the tennis club caught fire which led to the full abandon of the site (Pg.13, submitted Design and Access Statement);
- *The physical condition of the land or building* – “The site has been unused and left to derision” (Pg.13, submitted Design and Access Statement);
- *Whether there had been any other use* – “The site has seen minimal use since 1998 and has remained closed and vacant since late 2002” (Pg.13, submitted Design and Access Statement); and
- *The owners intentions as to whether to suspend the use of to cease it permanently* – It is clear from the repeated and continued attempts to attain planning permission for an alternative use that there is no intention to utilise the site as its former use. It has been consciously “left to derision” (Pg.13, submitted Design and Access Statement.

2.7 The site is therefore, in planning terms, abandoned and that is the nil baseline against which all proposed impacts, such as the openness of the Metropolitan Open Lane, should be assessed.

Planning Use Class

2.8 In the event that it is found that the site has not been abandoned then, contrary to the assertion at pg.3 of the submitted Planning Statement, the proposal *does* constitute a material change of use. Whilst the previous use would have been within Use Class F2 (“an area for outdoor sports or recreation”) the proposal, due to its covered indoor nature, falls within Use Class E(d) (“indoor sport and recreation”). As there are no permitted development rights between Use Classes F2 and E(d) the proposed change of use requires expressed planning permission.

Absence of Anti-Social behaviour

2.9 The applicant relies upon previous anti-social behaviour on the site to establish a planning gain from their proposal to positively developing the site. However, this is not a characterisation that the local community recognise. Members of the Blackheath Padel Court Action Group have the following observations:

“The old pavilion was a magnet for kids and there was once party when the

police were called as hundreds of teenagers turned up for a party. Then squatters moved in shortly after that and burnt it to the ground. After that point there was no draw to the place as it's just a concrete rectangle and the anti-social behaviour ended"

"We have not had any complaints since the fire that finally saw the end of the derelict club house"

2.10 A search of the area from March 2022 to present on the Metropolitan Police Crime Map (<https://www.police.uk/pu/your-area/metropolitan-police-service/blackheath-westcombe/>) reveals that there have been no reported incidents on the application site in that time.

2.11 There is, therefore, no ongoing anti-social behaviour and, accordingly, no rationale that the site should be developed to resolve any existing issues.

3.0 METROPOLITAN OPEN LAND

3.1 The application site is located within an area designated as Metropolitan Open Land (MOL). As set out within Paragraph 8.3.1 supporting Policy G3 of the London Plan "MOL protects and enhances the open environment" and, therefore, "will be maintained and its open character protected from inappropriate development" (Policy OS2 of the Local Plan).

3.2 Accordingly, "MOL is afforded the same status and level of protection as Green Belt" and "MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt" (Policy G3 of the London Plan).

3.3 Whilst it is not for the planning application process to consider whether MOL should be designated as such, as it is simply a fact that it is designated and the relevant policies therefore engaged, it is notable that the Council undertook an audit of MOL in 2017 and published its finding in its 'Towards a Greener Royal Greenwich Green Infrastructure Study 2017'. As set out at pg.39 of the appendices to the Study the site, identified as part of MOL parcel No.55, is considered to "contribute to the physical structure of London by being clearly distinguishable from the built-up area" so is clearly of significant value to the purposes of MOL.

Form of proposed development

3.4 The proposal includes a 450 sqm clubhouse that the applicant does not dispute constitutes a 'building' in planning terms. The submitted Planning Statement does however contend, at Pg.2, that "the padel courts themselves, although benefitting from a canopy, are still 'external' and do not represent a building with internal floorspace".

3.5 This is palpably not the case and the proposed padel courts meet the three primary factors that determine 'what is a building?' – size, permanence and physical attachment

– that were established in Cardiff rating Authority vs Guest Keen Baldwin Iron and Steel Co. Ltd [1949]:

- *Size* – The proposed courts are in excess of 600 sqm floorspace and 10m high;
- *Permanence* – The enclosure is permanent and would not be removed once constructed; and
- *Physical Attachment* – The metal frame that supports the enclosure would be permanently physically attached to the ground.

3.6 This conclusion is consistent with that of a Planning Inspector when considering a comparable proposal for the “erection of a canvas dome to 3 no. external tennis courts” (APP/F5540/X/01/1058312; The Riverside Club, Chiswick) who stated that it “must be regarded as a building for planning purposes”.

3.7 It is also clear that the proposed courts are not indoor but rather rely on “covered courts ... to optimise the recreational use and capacity of the site by enabling play to take place all year around” (Pg.3; submitted Planning Statement). The courts would be fully enclosed and the extent of the coverage is well illustrated by the CGI that the applicant has produced:



Submitted Design and Access Statement, Pg.53

3.8 This conclusion is consistent with that of a Planning Inspector when considering a comparable proposal for the “erection of translucent polythene membrane inflatable dome to cover three tennis courts” (APP/Y5420/A/13/2198650; Crouch End Playing Fields) who stated that “the purpose of the enclosure is to allow tennis to take place under cover or ‘inside’. As such, it would not support the use of the outdoor open space.”.

Harm to openness

3.9 There is, in literal terms, no development on the application site. It simply forms a parcel of land, visible from the public realm, that adds to the sense of openness at the very edge of the MOL.

3.10 it has been previously recognised by a Planning Inspector (APP/E5330/A/00/1042242; Bardhill Sports Ground) that “it is the edges of MOL where it abuts development that are the most vulnerable” and this is further echoed by the Local Plan, which states that “special consideration will be given to development proposals on land fringing, abutting or otherwise having a visual relationship with MOL” (Policy OS(a)).

3.11 The proposal would introduce significant and consistent built form, of considerable height, that would occupy the entire width of the site and reduce openness, both literally in physical terms and in terms of perception from the public realm. It would be similar to the “impenetrable visual barrier for those looking across the sports ground” concluded by a Planning Inspector in a comparable proposal for a PVC coated polyester structure over cricket nets (APP/Q5300/W/19/3231329; Paulin Ground, Southgate). This visual impact would be exacerbated by the parking of cars on the site and the intensity of use proposed.

3.12 The proposal would therefore introduce a significant volume of development above ground level and harmfully reduce the openness of the MOL.

Inappropriate development

3.13 The National Planning Policy Framework (NPPF) protects MOL from inappropriate development and sets out only a modest number of developments that it does not consider to be inappropriate. The proposal does not, as follows, meet the definition of any of the developments that would not be considered “inappropriate” (NPPF Paragraph 154):

Not considered Inappropriate	Commentary
<i>“Buildings for agriculture and forestry”</i>	The proposal does not meet the definition.
<i>“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”</i>	The proposal does not meet the definition as the proposed activities are all under extensive roofed cover. Regardless, the proposal would not preserve openness.
<i>“The extension or alteration of a building provided that it does not result in</i>	The proposal does not meet the definition.

<i>disproportionate additions over and above the size of the original building”</i>	
<i>“The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”</i>	The proposal is not for a replacement building. If it was held that, despite no building being present, the proposal, in part, replaced the burnt down clubhouse then the proposal is materially larger than the previous clubhouse.
<i>“Limited infilling in villages”</i>	The proposal does not meet the definition.
<i>“Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites)”</i>	The proposal does not meet the definition.
<i>“Limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt”.</i>	The proposal does not meet the definition of Previously Developed Land (NPPF, Annex 2) as “the remains of the permanent structure or fixed surface structure have blended into the landscape”. Regardless, the proposal would cause substantial harm to openness.
<i>“Mineral extraction provided they preserve its openness and do not conflict with the purposes of including land within it”</i>	The proposal does not meet the definition.
<i>“Engineering operations provided they preserve its openness and do not conflict with the purposes of including land within it”</i>	The proposal does not meet the definition.
<i>“Local transport infrastructure which can demonstrate a requirement for a Green Belt location provided they preserve its openness and do not conflict with the purposes of including land within it”</i>	The proposal does not meet the definition.
<i>“The re-use of buildings provided that the buildings are of permanent and substantial construction”</i>	The proposal does not meet the definition.
<i>“Material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds provided they preserve its openness and do not conflict with the purposes of including land within it)”</i>	The proposal is not only for the change of use of land as operational development is also proposed. Regardless, it the

	proposal would not preserve openness.
<i>“Development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order provided they preserve its openness and do not conflict with the purposes of including land within it”</i>	The proposal does not meet the definition.

3.14 The proposal is therefore, by definition, inappropriate within the MOL.

Small scale and ancillary

3.15 Whilst policies OS2 and OS(a) of the Local Plan accept that “small scale-built development which has a primary function for a purpose ancillary and essential to an appropriate use may be permitted” within MOL these policies pre-date Policy G3 of the London Plan and should only be read consistently with the exceptions to inappropriate development set out within the NPPF, as per above. The provisions of policies OS2 and OS(a) should not, therefore, be regarded as an exception for development that would otherwise clearly be in conflict with the NPPF (i.e. meeting the definition set out in the Local Plan alone is not sufficient to demonstrate acceptability if there is a conflict with the NPPF, particularly with regard to the impact upon openness).

3.16 Regardless, the proposal would fail to meet the requirements of policies OS2 and OS(a) as:

- *It is not ancillary* – There is no development present on the site for the proposal to be ancillary to and, in any event, the proposed clubhouse and indoor courts would occupy the entire site. The proposal is therefore not ancillary and this conclusion is consistent with that of a Planning Inspector when considering a comparable proposal for “erection of a single-storey building for use as four indoor tennis courts” within Greenwich (APP/E5330/A/00/1042242; Bardhill Sports Ground) who stated that “the proposed indoor tennis courts would not in my opinion be ancillary to the main purpose of the sports ground which is the playing of outdoor sport”...“Although situated within the sports ground and sharing some facilities ... I consider that the proposal would in effect create another primary use on the site, indoor sports”
- *It is not small scale* – The proposed built form is extensive so is clearly not small scale. This conclusion is consistent with that of a Planning Inspector when considering a comparable proposal for the “erection of translucent polythene membrane inflatable dome to cover three tennis courts” in MOL (APP/Y5420/A/13/2198650; Crouch End Playing Fields) who stated that “the proposed development would extend across three tennis courts and be about 9m high. In my view, this is not a ‘small in scale’ development”.

Very Special Circumstances

3.17 Where the proposal is considered inappropriate within the MOL, as per above, the London Plan affords the strongest protection to MOL and states that inappropriate development should be refused, except in Very Special Circumstances (VSC).

3.18 VSC is a very high test, particularly so in this case as it would have to outweigh the harm that is caused by reason of its inappropriateness in the MOL in addition to the other harms identified. The application has not sought to demonstrate any VSC and it is clear that none are present.

3.19 In the event it was sought to be demonstrated, an identified need for a facility is not enough alone to constitute a VSC. This conclusion is consistent with that of a Planning Inspector when considering a comparable proposal for the erection of a single-storey building for use as four indoor tennis courts” (APP/E5330/A/00/1042242; Bardhill Sports Ground) who stated that “I consider that there is a need for indoor tennis courts in this part of London and that the proposed development would go some way to meeting that need” However, the need for and benefits of the proposed development are not in my opinion sufficient to outweigh the harm that would arise from allowing inappropriate development on MOL”.

3.20 Furthermore, it is notable that the applicant has made a concurrent application for a bowls club on the site (23/3372/F) that does not have the same level of negative effect as the proposed Padel Courts but would, conversely, result in similar benefits to the proposal; there is therefore a real possibility of an alternative on the site. Accordingly, as similar benefits can be attained through a development on the site that is less harmful to the MOL, the benefits of the application could not be considered to constitute VSC in any event.

Material differences with previous approval

3.21 Whilst the Council concluded acceptability in 2023 when assessing an application to establish a bowling club on the site, there are material differences between this application and the previous approval. In particular, the bowling green was not covered or enclosed by any structure, which had a fundamental bearing on how its acceptability, with regard to MOL, was assessed.

Summary

3.22 The site has, in literal terms, no development on it and its most recent use, prior to being abandoned, was an open-air sports use. The site contributes to the purposes of the MOL and, being located on the very edge of the MOL, is particularly vulnerable to change.

3.23 The proposal would introduce significant buildings to the site to provide an indoor sports use. This, by definition, is inappropriate in MOL and would significantly harm the openness of the MOL. The applicant has not sought to demonstrate VSC and it is clear that none are present.

3.24 Taking the above into account the proposal would therefore constitute inappropriate development within MOL, with no VSC, contrary to Policy OS2 of the Local Plan, Policy G3 of the London Plan and the NPPF and this constitutes an overriding reason for refusal.

4.0 RESIDENTIAL AMENITY

4.1 The application site is located within immediate proximity of a number of dwellings and apartments, particularly on the north side of Blackheath Park, with California House to the east and Paddock Close to the west. Regardless of this sensitive context, the application proposes that the use “will operate between 06:00 and 23:00, seven days a week” (Pg.3, Planning Statement).

4.2 Despite this context neither the applicant nor any of their appointed consultants sought to engage with the local community prior to the submission of the application. This has resulted in the scope of the applicant’s assessment being limited, having not had the benefit of local knowledge or access to any private spaces that may be impacted.

Lighting

4.3 It is noted that “the padel courts will be illuminated by high level primary lights, which are strong enough to keep the courts playable at any time of day” (Pg.57, Design and Access Statement) and “some lighting may be required to stay on throughout the night” (Lighting Assessment, pg.13). It is unclear what level of light diffusion will occur given that the “semi-transparent canopies allow natural light to filter through” (Pg.33 of the Design and Access Statement).

4.4 The proposal will therefore have a lighting impact upon nearby residents who will be subject to unacceptable light spill from the early hours until late during not only the winter months, but also significant parts of Spring and Autumn due to the extensive operating hours. It is also unclear from the submission documents whether 06:00-23:00 is the limit of when lighting will be on or whether that is the playing time meaning that lighting will be necessary beyond those hours to incorporate set up and down activities to prepare the Courts for play.

4.5 Policy E(a) of the Local Plan is clear that “planning permission will not normally be granted where a proposed development or change of use would generally have a significant adverse effect on the amenities of adjacent occupiers or uses” ... “lighting proposals which would adversely affect residential dwellings ... will be regarded as unacceptable”.

4.6 Given the significant light and noise impacts upon nearby residents that have been identified the proposal is therefore in conflict with Policy E(a) of the Local Plan, Policy D13 of the London Plan and the NPPF.

Noise

4.7 Policy E(a) of the Local Plan is clear that “planning permission will not normally be granted where a proposed development or change of use would generally have a significant adverse effect on the amenities of adjacent occupiers or uses, and especially where proposals would be likely to result in the unacceptable emission of noise”.

4.8 A Noise Assessment by Sandy Brown Consultants, submitted alongside this Report, identifies that within the context of industry guidelines and best practice, the noise impact assessment presented by Savills does not fully represent the significance of the noise impact likely to occur but rather substantially underestimates the effect of the proposal. This is particularly concerning given that adjacent residents within the Conservation Area do not have the usual freedoms available to introduce their own mitigations, for example listed buildings are required to retain their single-glazed windows, so are notably sensitive receptors.

4.9 There is accordingly a lack of confidence in the information that the applicant relies upon and this is further aggravated by insufficient clarity regarding practical matters such as whether the proposed canopy, that appears to depend on positive air pressure, requires mechanical fans and what the extent of the gap between the glass walls of the courts and the canopy is.

4.10 Given that the proposed development therefore risks causing significant adverse impact and significant harm to the residential amenity of neighbouring residential properties the proposal is in conflict with Policy E(a) of the Local Plan, Policy D13 of the London Plan and the NPPF.

5.0 HERITAGE ASSETS

5.1 The application site is set within a historical landscape, being immediately adjacent to Blackheath Conservation Area and with clear visibility of two listed buildings and a locally listed building.

Blackheath Park Conservation Area

5.2 The application site is immediately adjacent to Blackheath Park Conservation Area and the 1897 Ordnance Survey map (Pg.13 of the submitted Heritage Statement) illustrates how the edge of the Conservation Area, characterised by the series of Villas fronting Blackheath Park (and the undeveloped application site), form the historical context of the immediate locale.

5.3 The Council’s Conservation Area Appraisal identifies, at Pg.1, that “the special significance of the area comes from the quality and diversity of its housing, ranging from grand Georgian and Victorian villas to compact flats” and that “a signature quality of Blackheath Park is the harmonious relationship between dwellings and landscape on the long and broad tree-lined avenues that run through the area”.

5.4 The Conservation Area Appraisal specifically notes that “the majority of the Conservation Area is typified”, in part, by its “residential character that has, largely due to the lack of ancillary activities and poor connectivity to the east, resulted in a quiet and suburban quality. This has combined with the area's rich architectural history to create a sense of grandeur and exclusivity”.

5.5 It is acknowledged by the submitted Heritage Statement (Pg.6) that “the setting [of the Conservation Area] is generally considered to positively contribute to the significance of the Conservation Area, with large areas of green space and vegetated boundaries and roads complementing the suburban character”. It therefore follows that the openness and use of the application site, which has a character synonymous with that described above, is important to the significance and one’s experience of the Conservation Area.

5.6 The Conservation Area Appraisal identifies, at Pg.115 under the heading ‘problems, pressures and capacity for change’, that “at risk is the balance between the green elements and the buildings and the verdant character of the suburb”.

5.7 The application does not include a Landscape and Visual Impact Appraisal (LVIA) but rather relies on CGI’s to illustrate the proposed visual impact. However, no verification information is included and there is no depiction of the proposal in either the winter months or at nighttime. Furthermore, the CGI also does not include the proposed removal of a number of trees along the northern boundary of the site so is not representative, and therefore underestimates, the full extent and impact of the proposal.



Plan showing trees T4, T6, T11, T14, T19, T21, T23 and T24 which are to be felled on the northern boundary of the site (P.19, submitted Tree Survey & Arboricultural Impact Assessment)

5.8 Whilst there is currently intervisibility between the Conservation Area and the application site this will be heightened through the removal of trees and there will be clear visibility of the proposed built form and the car parking arrangements. This will be exacerbated by the intensity of use of the site.

5.9 Furthermore, there is a reality to the operation of a large commercial site and the regular servicing arrangements and ‘comings and goings’ that are generated, particularly given the extent of the opening hours proposed. An example of this is that, as set out at Paragraph 4.4.2 of the Transport Assessment, “The refuse collection will take place on street. The staff at the Club will be responsible for presenting the refuse bins at the kerbside for collection”. It is therefore inevitable that the introduction of a commercial use immediately adjacent to a Conservation Area characterised by its residential development will have a significant visual impact.

5.10 In addition, within the context of potential risks that the Council should seek to avoid, it is established above that the proposal will include significant lighting, on continuously, and that, given “semi-transparent canopies allow natural light to filter through” (Pg.33 of the Design and Access Statement), this will spill beyond the boundaries of the application site into the Conservation Area.

5.11 It is further established that there will be a significant intensity of movement and noise generated by the proposed use, a notable increase upon the existing (lawful) use of the site. This is exacerbated by the intervisibility between the site, its built form, parking arrangements and users, and the Conservation Area as illustrated by the proposed CGI at Pg.45 of the submitted Design and Access Statement (it is also noteworthy that the image represents the ‘best case scenario’ as all the vegetation is in leaf).

5.12 Given the established noise, lighting, visual impact and intensity of use that would result from the proposal, and the consequential change in how one would therefore experience the Conservation Area, it is beyond doubt that the proposal would materially and harmfully alter the “quiet, undisturbed character, with little through traffic and few pedestrians” that the Conservation Appraisal (Pg.108) identifies “within the Cator Estate”, which the application site is adjacent to.

5.13 There is a statutory requirement, as set out at s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, that “special attention shall be paid to the desirability of preserving or enhancing the character and appearance” of Conservation Areas when determining planning applications. This is echoed by Policies DH3 and DH(h) of the Local Plan, Policy HC1 of the London plan and the NPPF.

5.14 Within this legislative and policy context it is clear the application would not preserve, nor enhance, the Conservation Area by introducing significant built form to the application site, that has always remained open. It would also result in unacceptable levels of noise and light pollution in addition to introducing a significant intensity of activity. Collectively this would result in less than substantial harm to the Conservation

Area (Paragraph 215 of the NPPF) that is not outweighed by the public benefits of the proposal.

Grade II listed No.101 and No.103 Blackheath Park

5.15 No.101 and 103 Blackheath Park are respectively Grade II listed and their special historic significance is, in part, derived from their role as components of a series of large residential Villas on the edge of the Conservation Area, as identified in the section above. Both Villas include large amenity areas that, when viewed in context with the lack of commercial built form opposite, creates their sense of “grandeur” that is recognised by the Conservation Area Appraisal (Pg.1). The importance of the setting of a listed building is acknowledged at Paragraph 4.4.65 of the Local Plan which notes that “the setting of a listed building can be fundamental to its character and appearance and often forms part of its original design and layout”.

5.16 By placing significant commercial built form beyond the carriageway this will irrevocably alter the original setting of the listed buildings as it would completely, alongside Paddock Close, enclose their southern aspect. Furthermore, the introduction of significant noise, light and intensity of use will impact how one experiences the setting of the listed buildings.

5.17 This will have a significant negative impact upon the special architectural and historic interest of the listed buildings that is not outweighed by the public benefits of the proposal. The application is therefore contrary to Policies DHE and DH(i) of the Local Plan, Policy HC1 of the London Plan, Principle B.7 (Pg.43) of the Council’s Urban Design Guide and the NPPF.

Locally listed No.99 Blackheath Park

5.18 It is also notable that No.99 Blackheath Park is locally listed with the Council’s Conservation Area appraisal, at pg. 111, including the dwelling within its list of buildings which “make a particularly important contribution to the character of the conservation area”. Given that the impacts above also apply to No.99, and the submitted Heritage Statement does not acknowledge its presence, the proposal does not meet the requirement within Policies DH3 and DH(j) of the Local Plan that affords “substantial weight to protecting and conserving locally listed building”.

6.0 BIODIVERSITY

6.1 The application is accompanied by a Preliminary Ecological Appraisal and a Biodiversity Impact Assessment (ref: BG23.143B Rev 3 dated March 2025), albeit the latter is almost completely redacted and therefore illegible, contrary to the legislative requirement of Article 36 of Part 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2010. The Council should make this available in full (or at least in respect of bats) to allow scrutiny of it, given it is a document that the applicants are relying upon.

6.2 The submitted Preliminary Ecological Appraisal concludes, at Pg.27, that “the site supports vegetative features considered suitable to support commuting and foraging bats. The treelines and scattered trees within the site boundary provide valuable resources for foraging bats and connective habitat across the site, providing commuting pathways to the wider environment”. Furthermore, whilst not considered by the submission documents, the site is within close proximity of the Blackheath to Falconwood Railsides Site of Important Nature Conservation (SINC), which is located directly to the south.

6.3 Given that the submitted tree report sets out that three groups of trees and eight individual trees are proposed to be removed, that “the padel courts will be illuminated by high level primary lights, which are strong enough to keep the courts playable at any time of day” (Pg.57, submitted Design and Access Statement) and that “some lighting may be required to stay on throughout the night” (Pg.13 submitted Lighting Assessment, pg.13) there is the potential for a significant adverse impact upon bats using the site and the designated site, the SINC. Policy E(a) of the Local Plan is clear that “lighting proposals which would adversely affect ... sites of nature conservation value and protected or priority species and their habitats will be regarded as unacceptable”.

6.4 It is therefore not possible to conclude that there would not be an unacceptable impact without an emergence bat survey upon which to quantify the impact of the proposal and thereafter design mitigation as appropriate (as established to be necessary by *Morge vs Hampshire County Council* 2011 UKSC/2010/0120). The application is therefore contrary to Policy OS4 and OS(f) of the Local Plan, Policy G6 of the London Plan, the NPPF and the Conservation of Habitats and Species Regulations 2017.

7.0 HIGHWAYS & SUSTAINABLE MOVEMENT

7.1 The submitted Transport Assessment (TA), at Paragraph 5.15 concludes that the proposed development would generate 4 x two-way AM peak vehicular trips and 9 x PM two-way peak vehicular trips. Given that the proposal is for eight courts, there are four players per court and there are no gaps between sessions that equates to 64 players at any one time. When staff, other visitors and those encouraged by the proposed operation to enjoy the #padiumlifestyle (<https://padium.com/whats-on/>) on offer this number is likely to be much greater.

7.2 It is therefore telling that despite the TA, at Paragraph 5.2.2, concluding that “a maximum car parking demand for 10 spaces is likely to occur in the evening” the application proposes 17 car parking spaces.

7.3 It is therefore unclear whether the assumptions behind the submitted TA can be relied upon as either those arriving by vehicle will be a higher quantum than proffered or, alternatively, there is an overprovision of vehicular parking which will encourage visitors to travel by car. This would be contrary to Policy IM4 of the Local Plan which requires all development to “reduce the use of the private car and the need to travel” and the Mayor’s strategic target, as captured by Policy T1 of the London Plan, that 80% of all trips in London should be made by foot, cycle or public transport by 2041.

7.4 Furthermore, the submitted Transport Assessment, at Paragraph 5.17, relies upon the contention that “the proposed padel tennis facility would not generate a significant increase in traffic when compared to the previous use of the site”. However, given that the previous use of the site has been abandoned, this is the incorrect barometer for assessment.

8.0 OTHER MATTERS

Lack of consultation

8.1 No consultation was undertaken of the local community prior to the application being submitted. This has not only denied the local community to opportunity to be involved with the form and nature of development within their local area but has also limited the applicant’s ability to take fully informed decisions when developing their proposals, as can be seen by the limitations in the submitted noise assessment.

Pre-Application

8.2 The submitted Planning Statement sets out, in numerous places, excerpts of the pre-application response (24/1849/PRE1) from the Council. However, these are only excerpts and the submission does not disclose the substance of the response from the Council. The Council does not publish its pre-application responses.

8.3 This approach prejudices the ability of third-parties to participate in the application process as it denies the opportunity for scrutiny of the reasoning behind the advice that the Council has given at the pre-application stage. Other Authorities disclose all such advice consistent with recent case law (see the following link for a case in Richmond - <https://www.casemine.com/judgement/uk/65df7bf2d65e0a43a38b3c4e>). The Council should therefore publish, in full, the pre-application advice it has provided to the applicants.

8.4 In any event, pre-application advice is not binding and it is the application process which must consider the application on the facts and merits of the case, noting the clear conflicts with the Development Plan identified in this report.

9.0 SUMMARY

9.1 The proposal to change the use of the site to an “indoor sport and recreation” use and introduce significant built form would result in significant adverse impacts. The purpose and openness of the MOL would be irrevocably harmed, the amenity of local residents impacted unacceptably and the setting of the Conservation Area, respective listed buildings and locally listed building harmed. There is also no scientific certainty to be able to draw the conclusion that there will not be an impact upon protected species or the adjacent SINC whilst the submitted transport information cannot be relied upon.

9.2 The application is therefore in conflict with the Development Plan and there are no material considerations that outweigh this conflict. This is therefore a very simple case for the Council to determine – all considerations points to refusal and, as there is no prospect of the applicant being able to demonstrate appropriateness in the MOL, the application should be refused without delay.



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