

# REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Report No.

Date of Meeting	22 February 2012		
Application Number	N/11/03755/FUL & N/11/03756/LBC		
Site Address	Brook Farm, West Kington, Wiltshire, SN14 7JQ		
Proposal	Formation of Tennis Court		
Applicant	Mr & Mrs Graves		
Town/Parish Council	Nettleton Parish Council		
Electoral Division	By Brook	Unitary Member	Cllr Jane Scott OBE
Grid Ref	380759 177271		
Type of application	Full & Listed Building Consent		
Case Officer	Chris Marsh	01249 706 657	Chris.marsh@wiltshire.gov.uk

## Reason for the application being considered by Committee

The applications have been called by Committee by the Unitary Member, in order to consider the impact of the proposed development on the surrounding area.

### 1. Purpose of Report

To consider the above applications and to recommend that planning permission and listed building consent be REFUSED.

### 2. Main Issues

The main issues for consideration are the potential impact of the proposed development on the historic fabric of the listed building and the West Kington Conservation Area, the ecological impact and the general effect on the rural character of the landscape.

### 3. Site Description

The site is located within a steep valley in the centre of the village of West Kington, partially within the curtilage of the Grade II-listed Brook Farmhouse, which dates from the 17<sup>th</sup> Century. To the North of the farmhouse is an array of historic and more modern outbuildings associated with the working farm and otherwise for general storage purposes.

The residential curtilage of the dwelling itself extends to the Northeast of the property and is clearly defined by a mixture of paving, lawn and vegetable garden use. It is bounded from the highway by a low wall with sparse trees and planting behind and visible from the public highway and adjacent pedestrian right of way. The site lies within the West Kington Conservation Area and wider Area of Outstanding Natural Beauty and adjacent to a County Wildlife Site.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
N/07/02841/FUL	Construction of Entrance Hall/Link	PERMIT
N/07/02842/LBC	Construction of Entrance Hall/Link	PERMIT
N/05/02531/LBC	Construct New Staircase to Attic	PERMIT
N/05/02721/LBC	Repairs and Replace Workshop	PERMIT

## **5. Proposal**

Planning Permission and Listed Building Consent are sought for the construction of a new tennis court at the Easternmost extent of the domestic garden, overlapping with the land immediately East, beyond the established domestic curtilage. The court is to measure 35x18m and will be surfaced using a standard hard playing material. 3m-high netting is to be used to enclose the court. In order to achieve a flat surface, the foundation is to be laid into the South slope of the site adjacent to the highway and the remaining strip of land terraced steeply away from the Highway to accommodate the works.

## **6. Consultations**

Nettleton Parish Council – supports

Principal County Ecologist – objects as the proposal contains insufficient information to fully assess the proposal's impact in relation to National Policies (PPS9, PPS7), Local Plan Policy (NE11) and the Council's Statutory duties under the Wildlife and Countryside Act (1981), Circular 06/2005 and CRoW Act (2000)

## **7. Publicity**

The applications were advertised by site notice, press advert and neighbour consultation.

One letter of support received in respect of each application, citing that the development would be a positive contribution to the village community.

## **8. Planning Considerations**

- Impact on the listed building and its setting
- Impact on the Conservation Area and AONB
- Impact on the rural character of the landscape
- Impact on ecology

The proposed site for the tennis court and surrounding fencing lies on steeply sloping land, in part domestic curtilage to Brook Farm and in part open agricultural land. Brook Farm is a Grade II listed building, dating from 17<sup>th</sup>C with its garden, bounded by stone walls, to the east. The property lies in the centre of the West Kington conservation area, adjacent to a County Wildlife Site and the settlement is within the Cotswold Area of Outstanding Natural Beauty.

Two public rights of way run close to the property, both with clear views of the proposed site for the tennis court.

The existing complex at Brook Farm is set in the bottom of the valley with its land stretching north and east along both sides of the brook. This land forms not only the setting of the listed building but also an essential component of the conservation area defining a substantial part of its appearance and character. Beyond the domestic garden immediately to the east of the house the appearance and character is entirely rural, steeply sloping pasture on both sides of the brook, the pasture land bounded by trees and hedgerows on the southern side of the valley.

The distant and closer views, which may be clearly obtained from the north side of the valley, enable the setting of the listed group in the wider landscape to be readily appreciated. The relationship between the close-knit buildings, the domestic garden and the steep-sided pasture land is one of the defining characteristics of this listed group and of the conservation area at this point.

The photographs submitted with the application show that, without doubt, the tennis court and its netting will be clearly visible in the wider landscape.

In order to accommodate the court on the sloping valley side a very substantial amount of soil will have to be removed and the rock face at the upper level of the field steeply terraced. Even if planted this will produce an alien and incongruous feature in this rural valley, the landform of which remains essentially unchanged.

The combination of the court, its netting and the substantial alterations to the land form, together with its visibility, will result in a seriously damaging loss of significance to both the conservation area and the setting of the listed building, both of which the Council has a duty to protect, and I strongly recommend that permission be refused.

#### **N/11/03755/FUL**

It is considered that the proposed development represents an unwarranted and unacceptable intrusion upon the historic garden and landscape, and thereby upon the setting of the listed building. The proposed re-sculpting of the land would have a detrimental impact upon the site and the wider West Kington Conservation Area by reason of its dramatic re-profiling to accommodate such a substantial domestic structure. The proposed tennis court and associated works would fail to respect the character of the listed building, its curtilage or the wider Conservation Area. The proposal will also harm the rural character and, without suitable mitigation, potentially the ecological value of its setting.

The principal Ecologist is strongly of the view that due to the lack of ecological information (which was requested prior to the application being submitted) the application should be refused.

#### **N/11/03756/LBC**

It is considered that the proposed works would have an intrusive effect upon the historic garden landscape, and as such the setting of the listed building, and are therefore unacceptable in planning terms. The disruption to the landscape would detrimentally alter the character and appearance of the site and compromise its historic integrity within the wider West Kington Conservation Area.

### **9. Recommendation**

#### **N/11/03755/FUL**

Planning Permission be REFUSED for the following reason:

1. The proposed development, by virtue of its scale and visual impact, and associated landscaping works will detrimentally affect the character and appearance of the Conservation Area and the setting of the listed building. The landscaping works will harm the rural character of the site and, as such, the wider Area of Outstanding Natural Beauty. The proposal therefore conflicts with Policies C3, NE4 and HE1 of the adopted North Wiltshire Local Plan 2011.
2. The application proposals contain insufficient information to address ecological issues and as such the proposal fails to comply with Planning Policy Statements PPS9 and PPS7;

Policy NE11 of the North Wiltshire Local Plan 20111 and the statutory duties imposed by the Wildlife and Countryside Act (1981) and the CRoW Act (2000).

**N/11/03756/LBC**

Listed Building Consent be REFUSED for the following reason:

1. The proposed works, by virtue of their scale, visibility and associated landscaping, will result in a damaging loss of significance to the setting of the listed building and therefore should be refused in accordance with Policies HE7.5, HE8.1 and HE9.4 of Planning Policy Statement 5 (Planning for the Historic Environment).

<b>Appendices:</b>	<b>Appendix I – Conservation Officer Comments</b> <b>Appendix II – County Ecologist Comments</b>
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COMMENTS OF CONSERVATION OFFICER  
IN RESPECT OF BROOK FARM, WEST KINGTON  
N.11/03755 FUL

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The distant and closer views, which may be clearly obtained from the north side of the valley, enable the setting of the listed group in the wider landscape to be readily appreciated. The relationship between the close-knit buildings, the domestic garden and the steep-sided pasture land is one of the defining characteristics of this listed group and of the conservation area at this point.

The photographs submitted with the application show that, without doubt, the tennis court and its netting will be clearly visible in the wider landscape.

In order to accommodate the court on the sloping valley side a very substantial amount of soil will have to be removed and the rock face at the upper level of the field steeply terraced. Even if planted this will produce an alien and incongruous feature in this rural valley, the landform of which remains essentially unchanged.

The combination of the court, its netting and the substantial alterations to the land form, together with its visibility, will result in a seriously damaging loss of significance to both the conservation area and the setting of the listed building, both of which the Council has a duty to protect, and I strongly recommend that permission be refused.

In response to a number of comments made in the Design and Access and Heritage statements I would make the following points:

- Tennis courts have indeed been associated with historic buildings, without perimeter netting until the latter part of 20thC. However the acceptability of modern courts in historic settings does depend on the capacity of that setting to accommodate the court and its modern accoutrements without damage.
- The setting of a listed building is not defined by its domestic, or other, curtilage and the impact upon a setting cannot be said to be a direct function of distance from the principle building. Nor is it a function of visibility from public viewpoints. Although the court might not be visible from the street it still affects the setting and, as it can be seen from public viewpoints to the north, it would have an impact upon the appearance and character of the conservation area which, along with the setting of the listed building, the Council has a duty to protect.
- The details of the listing citation are for the purposes of identification and they are not intended to be read as a definitive guide to all aspects of the significance of an historic asset.

<b>To: Chris Marsh</b>	<b>Location: Monkton Park</b>
<b>From: Jon Taylor</b> <b>Principal Ecologist</b>	<b>Location: Shurnhold</b> <b>Extn No: 18276</b>
<b>Copied to:</b>	
<b>Date: 12/01/12</b>	

### Consultation Response for – N/11/03755/FUL Brook Farm, West Kington, Wiltshire

**Application for:** Formation of Tennis Court

#### **Relevant Legislation, Policy and Guidance:**

Wildlife and Countryside Act (1981), Natural Environment and Rural Communities Act (2006), Planning Policy Statement 9, ODPM Circular 06/2005, North Wiltshire Local Plan

#### **Background:**

The application is for formation of a private tennis court adjoining Brook Farm, including landscaping. The site is located at the top of in the southern slope of the Broadmead Brook, which forms part of the By Brook network of valleys. The area is rich in biodiversity, particularly associated with areas of calcareous grasslands and ancient woodlands which are strongly distributed along the valleys.

Pre-application advice was provided by Wiltshire Council in May 2011; this advised that any application should be supported by an ecological assessment and mitigation plan, given the sensitive location of the site. In particular the following issues were raised:

1. *Due to the underlying geology and historical land management practices, much of the grassland in the By Brook valley is unimproved calcareous grassland. This is a Biodiversity Action Plan (BAP) habitat, and as such is covered by PPS9 and local policy NE11. Loss of calcareous grassland will require compensation, potentially through a commitment to favourably manage other calcareous grassland areas within the land holding. Damage to any adjacent areas of calcareous during the construction phase should be avoided through sensitive construction methods.*
2. *The adjacent By Brook is a County Wildlife Site and an important wildlife corridor, and as such is covered under local policies NE7 and NE10. A no construction buffer will need to be established and maintained during the construction phase to avoid impacts upon this watercourse.*
3. *The mosaic of grassland and scattered scrub could support reptiles, invertebrates and badger - potential impacts on these protected / BAP species should be considered and mitigated.*
4. *The By Brook is very important for commuting / foraging bats. The application should include a commitment to have no external lighting associated with the development.*

No such information has been submitted with the application.

Each of these four issues are dealt with in turn below.

#### **Key Issues:**

*Loss of Calcareous Grassland*

The application site is located in a limestone valley, which forms part of the wider By Brook valley network. Calcareous grassland occurs relatively frequent as small patches within these valleys, despite it being a relatively scarce and declining habitat in a county and national context, with the By Brook area representing an important remaining resource conserved by local land management practices. Calcareous grasslands support a high diversity of flora and fauna including rare species, and its importance and declining distribution has been recognised through its inclusion on both the UK and Wiltshire Biodiversity Action Plans (BAPs).

UK and local BAP habitats are a material planning consideration in accordance with PPS9, Circular 06/2005 and local plan policy NE11:

*'Development proposals should ensure that species and habitats set out in the UK and local biodiversity action plans will be protected, and where possible, enhanced to help deliver BAP targets.*

*Development which would adversely affect, directly or indirectly, the biodiversity of the district will only be permitted when mitigating measures can be provided to retain and reinstate the level of biodiversity value. In order to achieve this, conditions and/or planning obligations will be used.*

*Appropriate management will also be encouraged through use of conditions, planning obligations and/or by entering into management agreements with landowners and developers, where appropriate.'*

The development proposals will require the loss of existing grassland within the site in order to accommodate the tennis court and necessary earth works to level the site. The remaining grassland habitats are likely to be affected by shading from the proposed landscape planting. Given the lack of information submitted with the application, it is not possible establish whether these grassland areas are indeed calcareous grassland or what the scale of such impacts would be; the application has therefore failed to demonstrate that it meets the requirements NE11 or PPS9 in this respect.

Further to this, the failure to provide any ecological information with the application does not meet the first key principle of PPS9:

*Development plan policies and planning decisions should be based upon up-to-date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area. In reviewing environmental characteristics local authorities should assess the potential to sustain and enhance those resources.*

#### **By Brook County Wildlife Site**

The detailed proposals show that the development would be located to the top of the valley, sufficiently far from the adjacent Broadmead Brook as to avoid any impacts. As such, the required construction activities are considered unlikely to impact upon the By Brook wildlife corridor and County Wildlife Site, and would therefore comply with NE7 and NE10.

#### **Protected Species**

No information on protected and BAP species has been submitted with the application, as was requested at the pre-app stage. Given the degree of cut and fill required to accommodate the development within the steep topography it is likely that development would impact upon any protected species present, potentially resulting in a breach of the Wildlife and Countryside Act (1981). Circular 06/2005 establishes that protected species are a material planning consideration requires that relevant information is required prior to determination:

*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. (Para.99)*

The current application therefore fails to meet this statutory requirement.

#### *Lighting*

The application does not confirm whether any external lighting would be associated with the tennis court, however no lighting is shown on the drawings and it is considered that this could be controlled through a suitably worded condition.

#### *Landscape*

While not my primary technical discipline, I will also make some broad observations on landscape as the lack of information on landscape impacts is rather conspicuous given that the application site is located in an AONB.

The site itself is located within the By Brook Valley Landscape Character Area<sup>1</sup>. One of the strongest characteristics of this area is the steeply sided, narrow valleys which provide a strong sense of enclosure. Given that the development would include a fairly substantial area of cut and fill, this could considerably change the topography of the site, degrading the character of the valley and impacting upon local views. The character of the settlements including traditional buildings and materials also strengthen the landscape character of the area. The Conservation Officer has already made it clear that the development would impact upon the character of the West Kington conservation area, and it is considered that the large fences surrounding the tennis court would be out of character for the village and could be visually intrusive in the surrounding landscape, and could further impact upon local views.

Section 85 of the CRoW Act places a statutory duty upon local authorities to conserve and enhance the natural beauty of AONBs, while PPS7 also establishes that landscape protection must be given a substantial weighting in planning decisions in these areas:

*The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas.*

In the local plan NE4 also places further restrictions on development in AONBs:

*In Areas of Outstanding Natural Beauty (AONB), priority will be given to the conservation and enhancement of the natural beauty of the landscape. The environmental effects of all development will be a major consideration.*

*Development will be restricted to:*

- i) The change of use of existing buildings; and/or*
- ii) That which is appropriate to the economic and social well-being of the area;*
- iii) That which is desirable for the understanding and enjoyment of its amenities;*

*And provided the proposal:*

- a) Conserves or enhances, the natural beauty of the landscape, including its open rural character, and any riverside or water features, wildlife sites, trees or woodland;*
- b) Is sited and designed so as to minimise its impact on the natural beauty of the area and, where possible, is located close to and in association with existing buildings; and*
- c) Uses appropriate building materials and landscaping*

I am not convinced that the information submitted is sufficient to fully evaluate the landscape impacts of the proposals in order to demonstrate compliance with PPS7 or NE4, or the council's statutory duty to protect AONBs. It is worth noting that other officers within the council may be better placed to make a judgement in respect of likely landscape impacts.

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<sup>1</sup> North Wiltshire Landscape Character Assessment (2004)



## **Ecological Recommendation:**

The development is likely to impact upon local ecology and landscape character. Given the lack of appropriate information submitted with the application despite pre-application advice provided to the applicant, I do not consider that all relevant material planning consideration may be taken into account in determining the application, particularly in relation to:

- National policy (PPS9, PPS7);
- Local policy (NE11); and
- Statutory duties (Wildlife and Countryside Act (1981), Circular 06/2005, CRoW Act (2000))

If appropriate information cannot be submitted to demonstrate compliance with these policies prior to determination I recommend that the application be withdrawn or refused.

However, In the event that Committee is minded to approve the application contrary to this recommendation, it is advised that suitably worded conditions be attached to any permission granted in order to minimise the ecological impacts of development. Suggested wording is provided below:

- 1. Prior to commencement of development an ecological assessment and mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. All development shall be carried out in complete accordance with the approved ecological mitigation strategy.*
- 2. No external lighting shall be installed on site without written approval from the Local Planning Authority. Plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage must be submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.*

# West Kingston

