

**UTT/0844/11/FUL (MANUDEN)**

(Referred to Committee by Cllr Loughlin Reason: To assess the impact on neighbouring properties, particularly to the rear, and to assess the impact on the church grounds.)

**PROPOSAL:** Construction of tennis court and enclosure

**LOCATION:** Cleeve Hall, 57 The Street, Manuden

**APPLICANT:** Mr & Mrs N Squibb

**AGENT:** Mr Alan Smith

**GRID REFERENCE:** TL 489-267

**EXPIRY DATE:** 23 June 2011

**CASE OFFICER:** Miss K. Benjafield

**APPLICATION TYPE:** Other

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**1. NOTATION**

1.1 Outside Development Limits / Within Conservation Area

**2. DESCRIPTION OF SITE**

2.1 The site covers an area of 0.84ha and is located on the south side of The Street. The dwelling on the site is a two and a half storey detached brick property located facing the highway. Adjacent to the dwelling is a single storey garage with parking area adjacent, set behind double gates.

2.2 To the rear of the dwelling is a substantial garden area. Immediately to the rear of the dwelling is a formal garden area and beyond that, separated by a mature hedge is a further area of garden. Within this area of garden adjacent to the graveyard to the southwest, is a climbing frame/treehouse structure. To the southeast the land has rugby posts and is grassed. The eastern site boundary comprises railings with some mature trees and there is post and rail fencing with mature trees to the southern boundary. To the south of the southern boundary is a track providing access from the historic graveyard within the churchyard to the newer graveyard to the west of the site.

**3. PROPOSAL**

3.1 This application relates to the construction of a tennis court with fencing surrounding it on the area of land to the southeast of the site. The area surrounded by fencing would amount to 553m<sup>2</sup> with 257m<sup>2</sup> being covered by the court itself. The fencing surrounding the court would be chain link and have a maximum height of 2.8m high.

**4. APPLICANT'S CASE**

4.1 A design and access statement has been submitted with the application. This provides details of the dwelling on the site, the proposal and pre-application advice. Full details can be viewed on the file.

**5. RELEVANT SITE HISTORY**

5.1 UTT/1521/10/FUL - Proposed garden site and removal of existing container.

- 5.2 There have been a number of applications relating to the listed dwelling at Cleeve Hall however only the above application relates to the area of land to the rear that is relevant to this application. In October 2010, planning permission was granted for the construction of a garden store building that would replace an existing container.

## **6. POLICIES**

### **6.1 National Policies**

PPS7 – Sustainable Development in Rural Areas

PPS5 – Planning for the Historic Environment

### **6.2 East of England Plan 2006**

None applicable

### **6.3 Essex Replacement Structure Plan 2001**

None applicable

### **6.4 Uttlesford District Local Plan 2005**

Policy S7 – The Countryside

Policy GEN4 – Good Neighbourliness

Policy ENV1 – Design of Development Within Conservation Areas

Policy ENV2 – Development affecting Listed Buildings

## **7. PARISH/TOWN COUNCIL COMMENTS**

- 7.1 The PC are concerned about the position of the tennis court. They are worried about the visual impact from the churchyard footpath and the screening in the area would need to have very careful consideration especially as the trees along the boundary may prevent the growth of a substantial hedge in that area.
- 7.2 They are also concerned regarding the impact on the neighbouring properties, in particular Glebe Hall, both with a visual point of view and a noise disturbance level. The height of the fence would need careful consideration in order to contain the balls as well as at the same time avoiding a negative visual impact as much on Glebe Hall as possible.

## **8. CONSULTATIONS**

### **Design Advice**

- 8.1 The proposal subject of this application is to form a tennis court within the garden of the Cleeve Hall. The court would be located some distance away from the Hall and screened from it by existing well established vegetation. I consider that it would have no damaging affect on the setting of the Hall.

The suggested location of the court would mean that it would be visible to some degree from the churchyard and the tennis activity may be apparent from the garden of Glebe House. However I do not feel that these considerations represent a valid conservation reason for refusal.

The boundary to the churchyard is defined by metal railings with areas of hedging. It can not be argued that the Cleeve Hall lawn contributes in great measure to the open setting of the Church ground. The boundary with Glebe House consists of substantial brick wall and again the considerable distance to the house gives sufficient area of visual separation. Page 2

In conclusion I do not object to the proposed development subject to the following conditions.

- In addition to the netting the new tennis court to be screened by planting of suitable species of hedging.
- The proposed netting to be dark green or black to visually merge with the existing back drop vegetation

### **Landscaping**

8.2 To be reported. Due 30 May.

## **9. REPRESENTATIONS**

9.1 Three letters of objection have been received, two of these are from the occupiers of No. 55 The Street and one from Manuden Parochial Church Council. Period expired 9 June.

9.2 Main points from adjacent residents:

- The fencing will impair views from the property.
- Would sufficient space be available for maintenance of the boundary wall?
- The proposal would have a negative impact on the church and principal graveyard. Noises associated with the use of the court would detract from services and funerals.
- The proposal is likely to result in the applicant wanting lighting for the court.
- The applicant has sufficient grounds for the court to be located elsewhere.

9.3 Main points from Manuden Parochial Church Council:

- There should be no use of the court during church services.
- There should be appropriate screening of the court from the church.
- Any damage or disruption caused to the churchyard during construction should be made good without argument.
- Adequate space on both sides of the iron churchyard fence should be provided for maintenance of the fence.
- There should be no access through the churchyard to the site nor use of the churchyard for any purpose either during or after construction.
- There should be no permanent lighting installed.
- A better location would be to the north end of the site, level with Cleeve Hall where no other properties would be affected.
- A caveat should be added preventing the use of the court when a funeral is taking place.

Comments on representations.

9.4 When determining planning applications, the right to a view is not a material consideration. The provision of lighting can be prevented through the imposition of conditions if approval is granted. The application must be determined as it has been submitted, it is not possible to require the repositioning of the court elsewhere on land owned by the Applicant.

9.5 Access to walls and fences for maintenance is a civil matter and cannot be considered as part of this application. Access to or from the churchyard and graveyard and any damage caused are also civil matters that must be dealt with under legislation other than planning legislation. It is not possible to impose conditions preventing the use of the court when funerals or services are occurring. Such a condition would fail to comply with the tests set out in (national policy) Circular 11/95: The Use of Conditions in Planning Permissions.

## **10. APPRAISAL**

The issues to consider in the determination of the application are whether:

- A The proposal would have a detrimental impact on the countryside, conservation area or adjacent listed buildings (ULP Policies S7, ENV1, ENV2 and PPS5, PPS7)
- B The proposal would have a detrimental impact on the residential or other sensitive adjacent properties (ULP Policy GEN4)

**A- Whether the proposal would have a detrimental impact on the countryside, conservation area or adjacent listed buildings (ULP Policies S7, ENV1, ENV2 and PPS5, PPS7)**

- 10.1 The proposed tennis court would essentially be a flat surface with fencing surrounding it at a maximum height of 2.8m. The fencing would comprise chain link with metal posts and this would allow views through the fencing, across the court and beyond. The Council's Conservation Officer has advised that the proposal would not have a detrimental impact on the setting of adjacent listed buildings and the open nature of the proposal would not detract from the character of the Conservation Area or the surrounding countryside.

**B - Whether the proposal would have a detrimental impact on the residential or other sensitive adjacent properties (ULP Policy GEN4)**

- 10.2 The area of land that is proposed to be used for the tennis court is currently used as garden. There is existing sports equipment on the land and it is likely that the occupiers of Cleeve Hall use the land for playing sports. The construction of a tennis court to be used only by the occupiers of Cleeve Hall would not generate a level of noise or disturbance which would be above that which could currently occur through the use of the land for sports activities. The proposal would not result in noise or disturbance that would cause material disturbance or nuisance to the occupiers of surrounding properties.

**11. CONCLUSION**

The following is a summary of the main reasons for the recommendation:

- A The proposal would not have a detrimental impact on the surrounding listed buildings, the Conservation Area or the surrounding countryside.
- B The tennis court for the use of the occupiers of Cleeve Hall would not have a detrimental impact on the occupiers of surrounding properties.

**RECOMMENDATION – CONDITIONAL APPROVAL**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans listed in the schedule of plans printed on this Decision Notice, unless agreed in writing by the local planning authority.

REASON: To ensure the scheme will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority

3. Scheme of landscaping to be submitted and agreed

Before development commences full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:-

- b) means of enclosure

- e) hard surfacing, other hard landscape features and materials
- f) existing trees, hedges or other soft features to be retained
- g) planting plans, including specifications of species, sizes, planting centres, number and percentage mix for enhanced landscaping along the eastern site boundary with the Church
- h) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
- i) details of siting and timing of all construction activities to avoid harm to all nature conservation features
- k) management and maintenance details

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted.

4. The proposed netting shall be either dark green or black.

REASON: In order to minimise the impact of the fencing and enable it to merge with the existing vegetation on and around the site.

5. The tennis court shall only be used by the Occupiers and non paying guests of Cleeve Hall.

REASON: In order to protect the amenity of neighbouring properties.

6. Control of lighting

There shall be no floodlighting or other form of external lighting constructed within the application site.

REASON: To ensure the development does not adversely affect the rural character of the area.



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