

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
077757/FO/2005/S2	27 April 2009	25th June 2009	Didsbury West Ward

**Proposal** Erection of new building 8.43 metres high adjacent to 5A Parkfield Road South to accommodate 2 double and 1 single tennis court with associated landscaping following demolition of existing indoor court building

**Location** Northern Lawn Tennis Club, Palatine Road, Didsbury, Manchester, M20 3YA

**Applicant** The Northern Lawn Tennis Club, Palatine Road, West Didsbury, Manchester, M20 3YA

**Agent** Ludlam Associates The Bank, 99 Palatine Road, Didsbury, Manchester, M20 3JQ

### Update

At Planning and Highways Committee on the 12<sup>th</sup> March 2009 the application was deferred to enable further negotiations to take place with the developer with a view to reducing the scale and mass of the development within the Conservation Area.

Further negotiations have taken place and plans have now been received in an attempt to address the concerns expressed in relation to the scale and mass of the development.

Changes from the previously submitted plans constitute:

- A reduction in the footprint to provide 2 doubles and 1 singles tennis court  
Measurement – 37.7m deep, 44.15m wide (1,664.45m<sup>2</sup>)  
Previous Measurement - 40.4 m deep, 47.5m wide (1,919m<sup>2</sup>)  
Existing Building - 17.9m deep, 43.6m wide (780.44m<sup>2</sup>)

Building footprint is 13.3% less than previous proposal.

- Sinking of the building 1 further metre to a total of 2 metres below ground level.

Measurement -	8.43m ridge, 3.065m eaves
Previous Measurement -	9.25m ridge, 3.375m eaves
Existing Building -	11.5m ridge, 9.6m eaves

(Measurements taken at the point nearest to shared boundary with No. 5a Parkfield Road South)

3.07 metres lower ridge and 6.535 metres lower eaves than the existing building. 0.82m lower and 0.31m lower at eaves than previous scheme.

- The building being moved 5.075 metres from the shared boundary with 5a Parkfield Road South. Previously the development was 1.35 metres from the shared boundary. Increase in separation of 3.725 metres.

- The removal of the internal viewing gallery increasing the separation distance to the north east boundary with the rear of No.'s 20 – 24 Blackburn Gardens to 10.475m from the previously proposed 7.75m separation distance. Increase in separation of 2.725m.

Previously the application had been deferred from the February Agenda for a Site Visit, having been withdrawn from the December Agenda to allow for further information to be obtained in relation to Fire Safety and Need.

### **Description**

The application site is at the Northern Lawn Tennis Club, which is located at the junction of Palatine Road and Lapwing Lane in a predominantly residential area of West Didsbury. The site lies within the Blackburn Park Conservation Area which was designated in December 1979.

The proposed development would see the demolition of an existing red brick building which is covered in ivy and stands to the south west of the Northern Lawn Tennis Club site, housing one indoor double tennis court and some changing facilities.

The properties nearest to the development lie on Parkfield Road South, Blackburn Gardens and Elm Road.

The existing building on site measures 11.5m high to the ridge (9.6m to eaves). The footprint measures 17.9m depth by 43.6m width (780.44m<sup>2</sup>), the gable of 5a Parkfield Road South is c. 1.7m from the existing building.

The proposed building would measure 8.43 metres high, moving the building 5.075m from the shared boundary with 5A Parkfield Road South, the footprint of the building would be larger than the existing building measuring 37.7m depth by 44.15m width (1,664.45m<sup>2</sup>), bringing the building to within 5m of the boundary with properties to the north side of Elm Road and within 10.475m with the shared boundary with properties on Blackburn Gardens to the north east.

The proposed two double and one single tennis court building would be constructed using red brinded clay facing bricks, with green metal cladding, translucent cladding panels used at the gable apex and an irrigated sedum type green roof system.

The main entrance into the proposed building would be off the existing service/access area. However the proposal is to gate the existing vehicular entrance from Parkfield Road South, allowing only access for emergency vehicles (those capable of using this access, larger emergency vehicles gaining access from Elm Road), making the access for the users of the facilities from the main club building accessed off Palatine Road.

This application has been revised and reconsulted upon following a number of changes, listed above.

Negotiations have been ongoing between the Northern Lawn Tennis Club and Blackburn Park Conservation Society following the submission of the revised

plans currently in front of the Planning and Highways Committee for determination. However those negotiations have come to an impasse.

Blackburn Park Conservation Society have requested that:

- The building be further lowered into the ground

Northern Lawn Tennis Club have discussed the lowering of the building 4.5m below ground level with the Building Regulations Officer, who has expressed serious concerns about the ability to effectively manage evacuation from the building, should it be lowered to 4.5 metres below ground level.

- The scheme be reduced to a two court scheme to reduce the footprint of the building

The Lawn Tennis Association have written to the Northern Lawn on the 1<sup>st</sup> April 2009 expressly stating that "the Lawn Tennis Association would not favour a net gain of a single indoor court. Due to the limited resources that the Lawn Tennis Association has available and the high cost of constructing two indoor courts, it would not represent a good enough return on Investment. The Lawn Tennis Association would still consider funding an indoor project comprising two doubles courts and a singles court dedicated to mini tennis and coaching, subject to a Funding Committee decision."

Blackburn Park Conservation Society will be reporting their comments as a late representation to Planning and Highways Committee.

The landscaping scheme previously referred to in the report to March Committee has been a subject of these further negotiations between the Northern Lawn Tennis Club and Blackburn Park Conservation Society. It would be appropriate for landscaping plans to be secured by condition to reflect these negotiations. A greater opportunity exists for an enhanced landscaping scheme by virtue of the greater separation distances now provided to the shared boundaries.

The Community Use Agreement drawn up in conjunction with Leisure Services (original Community Use Agreement submitted to accompany this application drawn up in conjunction with Tennis Development Officer in isolation of other Leisure Service input) is still offered, the most appropriate way of securing the Community Use Agreement being via a Section 106 agreement.

Application 077756/CC/2005/S2 for CONSERVATION AREA CONSENT for the demolition of the existing indoor court building to facilitate the erection of new building is still to be considered in tandem with this planning application.

No issues have been raised with regards to the loss of the existing building in terms of its contribution to the character of the Conservation Area, which is considered to be neutral, with the benefit of age and the presence of the ivy which screens the building. However, no Conservation Area Consent has been granted since the submission on 1st February 2006 as there has been no permission in place to secure the redevelopment of the site.

Were Committee minded to approve this application, the Head of Planning could exercise his delegated powers to allow the demolition of the building. A condition would be appended to any such approval ensuring that the demolition was tied to the redevelopment of the site.

## **Consultations**

The planning application has been advertised as affecting the Blackburn Park Conservation Area. Site notices have been displayed.

### **Local Residents -**

At the time that this report is being written 14 **objections** have been received from 13 separate addresses, residents being at No.'s 6 and 27 Elm Road, 6 Pine Road, 50 Old Lansdowne Road, Flats 2 and 5 Stonecroft, 7 Parkfield Lodge, 18, 31 and 33 Parkfield Road South, 7 Wolseley Place, 12 Linden Road, 660 Wilmslow Road, on the basis that:

- The building is considered to cause harm and would not enhance the character of the Blackburn Park Conservation Area by virtue of its scale and mass (footprint), contrary to policy DC18 of the Unitary Development Plan for the City of Manchester, creating a precedent for other buildings of this scale in Conservation Areas.
- The development will result in loss of light, space and privacy for residents in the immediate locality (Linden Road, Elm Road, Parkfield Road South, Trafalgar Place and Blackburn Gardens)
- The existing building could be refurbished
- There is a lack of demand for community tennis
- That 'Green' Roofs are eyesores
- Despite improvements to the scheme they are considered to be insufficient
- The Northern Lawn Tennis Club have blighted the Conservation Area with previous development and not abided by previous landscaping agreements
- Increase in Traffic
- Leafleting in the area contained misleading information with reference to availability of money and the relationship of money allocation to the 2012 Olympics
- Those who have signed the petition for the scheme are not old enough to be on the electoral register

Thus far 124 expressions of **support** have been received from residents and a petition with 161 signatures, on the basis that:

- The development is appropriate in the Conservation Area having regard to the existing building on site and the improved aesthetic of the new scheme
- The development will provide access for the community and will enrich the local school and community programmes to the benefit of health objectives
- The proposed building would have an improved relationship with 5a Parkfield Road South over the existing building
- The 'Green' Roof shows a high level of environmental awareness which should be supported

**Councillor Mark Clayton** made comment on 2<sup>nd</sup> June 2009 that:

"Disregarding the (small) changing rooms this approximates to an increase in above ground volume of around a quarter... Obviously there is a significant reduction in the height, little change in the north-south dimension and a big change in the east-west dimension as compared with the original building. To a first approximation this means that the aspects from Elm Road or Blackburn Gardens are likely to be less intrusive than the current building, however as

previously indicated the aspect from Parkfield Road South, especially 5A are much changed by this proposal. I am awaiting final feedback from residents before making any representations on their behalf.”

**John Leech MP** had previously made the comment that the building should be sunk a further metre into the ground as he feels that this would make a significant difference to improving the visual impact of the development. He has also commented on a separate occasion that the community use arrangements should be explicit, to ensure that they are fulfilled.

**Didsbury Civic Society** have not as yet submitted comments in relation to the revised scheme.

**West Didsbury Residents Association** “are pleased to see the NLTC’s proposed amendments to landscaping and offer to work on this partnership with local residents, we still feel the proposed building is too big. The Planning and Highways Committee on 12<sup>th</sup> March recommended that NLTC submit plans for an indoor court comprising a maximum of two double courts, so it is surprising to see an application has been made for two double courts and one single court, and this is what makes the application unacceptable.”

**Blackburn Park Conservation Society** have not as yet commented, although officers have been informed their comments will be submitted as late representations. Previously they have retained David Manley QC to comment. The most up to date comments upon the previous set of plans being reported as late representation to Planning and Highways Committee on the 12<sup>th</sup> March 2009. Their comments were that:

The Society submits that any consent granted in this case would be legally flawed and open to challenge in the courts.

In paragraph 8 on page 19 of the Committee Report, the Officers claim that the building is acceptable in its own right, not contingent on community benefits.

Counsel, David Manley QC, in his various submissions, concludes that this cannot be true, given:

1. The planning history since 2005; the only difference in the last 2 years, apart from community benefits being offered, is that the building is 50cms lower and 50 cms further away from nearest property. These differences are not material.
2. The e-mail from the Officers sent to many people on 16<sup>th</sup> December 2008 stating that the application would not be heard on 18<sup>th</sup> December 2008 to allow ‘more work to be done on the S 106 community benefits.’

Counsel states that if the building was acceptable in its own right then the matter would have been determined on 18<sup>th</sup> December, leaving community benefits to be finalised during the preparation of the S106. It was not determined on 18<sup>th</sup> December. It was withdrawn from the agenda.

Counsel concludes that this proves that the application depends on the provision of community benefits, without which it would fail.

Concerning these community benefits and the need for them, Counsel has examined the various submissions, bristling with business plans, targets and challenges and concludes:

1. They are all aspirational, without a single shred of evidence that there is even one person who is prevented from playing indoor tennis by lack of indoor courts in the region.
2. The data provided by Sport England actually confirms that the indoor court provision in Manchester is in line with the national average, with South Manchester well above the national average. Clearly, if there is a need in Manchester for more indoor courts, it is not in South Manchester.

He concludes that this lack of proof of need for additional community benefits will leave any consent granted open to Judicial Review.

As evidence of that, the Society refers the reader to the S106 Guidance/Advice Note, drafted by Mr Manley and submitted by the Society, and acknowledged to have been received by the Officers on 5<sup>th</sup> January 2009.

*(After the application was withdrawn from the agenda on 16<sup>th</sup> December, various conflicting statements were being made about S106 agreements. For clarification, the Society retained Counsel to produce the above Guidance/Advice Note.)*

The Officers have not referred to this Guidance/Advice Note in the Committee Report but the Society does so now.

In this document, it is clearly stated when an application is contingent upon S106 community benefits, as this now indisputably is, then there must be clear evidence:

1. Of the specific benefits which will be achieved
2. And of the need for them
3. And how harm caused by the proposal can be redressed

Here, there is no such evidence. Without it, any consent would be open to legal challenge.

*Counsel refers us to the similarities and precedents in the case of **South Holland DC v. Lincoln Co-Operative Society Ltd.** Such evidence was not provided but consent was granted. The consent was overturned in the courts.*

The Society has two further comments regarding the Committee Report:

1. The dimensions referred to in paragraph 4 on page 2 omit to mention that the proposed building will be 2.35m from the property at 5a Parkfield Road South.
2. In paragraph 6 on page 2, reference is made to larger emergency vehicles gaining access from Elm Road without mentioning that the Officers have been informed by Building Control that this would not be possible without a permanent roadway or track across the grass tennis courts being made.

**Ballbrook Conservation Area Group** have not as yet submitted comments in relation to the revised scheme.

**Manchester Conservation Area and Historic Buildings Panel** considered the unrevised larger version of this scheme at their meeting on Tuesday 13 March 2007. The minutes state that, "The Panel offered no strong views or objections to the proposals and generally supported the 'greening' of the proposed large building. The Panel suggested that the impact could be further reduced by breaking up the large panels on elevation into a series of smaller units between piers together with a general 'softening' of the angular expression. The Panel expressed concern regarding the large translucent panels to the building and the problems this may cause to neighbours with light shedding outwards from within the building at night. The Panel also felt that a key to the success or otherwise of this proposal would be the quality of the planting specification and the technical solution to the 'greening' of the building."

**Landscape Practice** state that they have considered the scheme submitted and previously visited the site and their comments were that:

" 1. The proposals are acceptable with the exception of the line of the protective fencing to root protection zones of the trees located within the adjacent properties. The protective fence is not in accordance with BS: 5837:2005 Trees in Relation to Construction, therefore the detail for this should be resubmitted.  
2. In accordance with the Manchester Guide to Development (SPD – 2007) a five year management and maintenance plan for soft landscape should also be submitted."

A condition has been imposed to ensure that works are carried out in accordance with BS:5837:2005 Trees in Relation to Construction as previously requested. The Landscape Architect will be involved in the discharge of conditions previously recommended and will be involved in the approval of any landscaping scheme that has been the subject of recent negotiation.

**Sport England** "offered its support for the proposed application under cover of its letter dated 26<sup>th</sup> September 2008 subject to a condition being imposed on any planning consent regarding a Community Use Agreement. The scheme has now been amended to address a number of concerns raised by members of the planning committee at their meeting held on 12<sup>th</sup> March 2009. This has resulted in a reduction in the overall number of courts now proposed and reduction in height of the new building. Sport England do not wish to make any further comments on the revised scheme and still offer its support for the proposals subject to a condition requiring a Community Use Agreement to be submitted and approved prior to the commencement of development."

Sports England then go on to suggest appropriate wording for a condition to secure a Community Use Agreement. However, the City Council consider it more appropriate to secure the Community Use Agreement via a Section 106 agreement.

**Leisure Services** previously stated that "Sport England has set a challenging target for all areas of the country to grow the number of people participating in Sport and Physical Activity. Currently 22% of the population is participating in 3 times 30 minutes of moderate intensity exercise per week (the government

bench mark for a healthy lifestyle). Manchester is currently performing at 19.1%, which is well below the national average.

Government has challenged providers of sport and physical activity to grow participation by 1% year on year in order to address health concerns and spiralling levels of obesity. To meet this challenge both the Lawn Tennis Association (LTA) and the Tennis Foundation has acknowledged in the document "Tennis Hot Spot Strategy" the need to increase the number of quality Tennis facilities.

Information obtained from Sport England's Active Places Database demonstrates that nationally there are 1,282 indoor playable courts available for a population of approximately 49.1 million, this equates to 1 court per 38,330. Manchester currently offers 9 courts (6 in North Manchester, 3 in South Manchester) for a population estimated to be 458,136 (General Population Estimate Mid-2007 for Manchester City Council), this equates to 1 court per 50,904 residents, which is significantly lower than the national average.

There is a clear shortfall in the number of indoor courts within the City of Manchester and there are no other proposals for such facilities, which are being developed by any other tennis providers within the City.

In addition LTA have set a minimum recommendation to have 1 indoor court per 200 tennis players. The Northern Lawn Tennis Club has a population catchment within a 30 minute drive of 1.38 million. LTA participation statistics demonstrate that 2% of the population play tennis regularly, which gives a player catchment of 27,600. Therefore 138 courts are required to facilitate the needs of these players. The following clubs currently offer indoor tennis provision within a 30 minute drive time of the Northern Lawn Tennis Club:

David Lloyd (Cheadle) - 9 permanent & 2 temporary indoor courts  
David Lloyd (Trafford) - 8  
Manchester Tennis Centre - 6  
Middleton (Sporta) - 9 permanent & 5 temporary indoor courts  
Bolton Arena - 8  
David Lloyd (Bolton) - 5 permanent & 2 temporary indoor courts  
David Lloyd (Warrington) - 6  
Warrington ITI - 4

Consequently, this catchment is still 71 courts short of the requirement detailed by the LTA. There is therefore a demonstrable need for additional indoor tennis courts within the catchment area of the Northern Lawn Tennis Club." Leisure Services have not provided any revised comment.

**Fire Safety Officer** commented on the previous plans stating that "the Fire Service are not normally consulted unless the application affects access to other premises, the issues being raised would be addressed at the submission stage after building control have made their observations in line with ADB."

**Building Control** have previously prepared advice in response Fire Safety Reports submitted on behalf of local residents, with regards to issues relating to Access for Fire Appliances, Fire Risk rising from Insufficient Space Separation

and Concerns around Means of Escape relating to Landscaping. The revised comments of the Building Control Officer are below in relation to Fire Issues.

With the revised scheme being sunk 2 metres into the ground, views were also sought on this occasion as to how this would affect access standards with regards to Building Regulations.

“The escape provision to the side route - at approx 1 in 19 gradient appears OK. A little steeper may be appropriate if this would assist since it is solely for escape purposes. As such access conditions under Part M are not so necessary.

The main entrance should be ramped and stepped as per Part M so the ramp needs to be between 1 in 12 – 1 in 20, depending upon the lengths of flights between landings.

In terms of path width, this need only be as wide as the exit door– as only means of escape. A little more information May be appropriate on intended use and numbers of likely users to ensure that exits are of suitable width, but for say a 1050 wide door this would cater for up to 220 persons this may be more than adequate for the intended use.

The path and entrance ramp are in an ideal position insofar as distance from external wall.

Due to amended distance to gable end from boundary the max area of unprotection – for fire spread – can be up to 40% of the gable elevation. Any walls above the 40% maximum will need to have fire resistance of 60 mins FR (applied from inside only).

The Green Roof is now a little further away and remains irrigated, as such Building Control and GMC F&RS would not object to the proposal.

The building is approx 1700sq/m in floor area and therefore <than the 2000sq/m min stated for the application of the 15% / 45m rule for fire appliance access. As such I would suggest that the entrance be the designated fire brigade entrance point as this should be located within the 1<sup>st</sup> 18.6m of external perimeter – closest to fire brigade entry point. From inspection the entrance door may need a slight adjustment, unless the external area can allow an appliance closer to the entrance having regard to the ability to drive in and either, continue on and our or turn around. The access gate must be sufficient to accommodate a fire appliance to enter into the site.

So, in the main, all the above appears positive – from a BRegs perspective and little appears necessary to be changed that would substantially impact upon the proposals as submitted.”

A condition would be imposed to ensure that the building was fully DFA2 compliant.

Building Control previously commented that in respect of the provision of a well-maintained and fully irrigated sedum roof – the risk of fire ignition, growth and spread is equivalent to that of a non-sedum roof of traditional construction using

substantially greater volumes of combustible material, which would have greater fire load and intensity.”

The views of **United Utilities** were sought with regards to the issue that was raised in relation to drought and whether or not this would impact upon water available to the Green Roof.

“Hosepipe Ban - How is a ban implemented - Publishing a newspaper notice in the area affected after consultation with the Environment Agency. The implementation of a ban is covered under Section 76 of the Water Industry Act 1991. A hosepipe ban can remain in force indefinitely. The notice remains effective until we publish notice of lifting.

For a non essential use ban the Secretary of State has to make an ordinary drought order of the appropriate scope. We must advertise our application, get the right local newspapers and make sure we serve it on the right district councils. A hearing of inquiry before an Inspector from the Department of the Environment Planning Inspectorate. If application is approved and order made we then publish local notice of non-essential users we are prohibiting or limiting and where. The order is in force for a maximum of 6 months unless renewed which would involve a further hearing or inquiry. There is intensive consultation with the Environment Agency at every stage.

The last hosepipe ban was in force from 17/8/95 - 22/10/96.”

United Utilities stated verbally that if the irrigation was a requirement to satisfy fire safety concerns, this would be **essential** and would not be subject to any water restriction.

**Arboricultural Officer** has no objections to the proposed works, but suggested a condition with regard to working to British Standard 3998 Recommendations for Tree Works, as per the Landscape Practice’s comments. A condition has been imposed to ensure that works are carried out in accordance with BS:5837:2005 Trees in Relation to Construction as previously requested.

**Environmental Health** requested that conditions be placed on any permission that controlled external lighting, acoustic insulation and the installation of any externally mounted ancillary equipment to protect the residential amenity of any surrounding property.

**Greater Manchester Police** Design for Security made comments in relation to the building securing Secure By Design Accreditation, which can be secured by condition.

**Network Rail** had no observations to make.

## **Issues**

### **Law**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering development within a conservation area, “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area”

## **Policy**

With regards to advice contained within Planning Policy Guidance Note 15, the PPG states at Paragraph 4.19 that "planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area.

In addition, at paragraph 4.20: "the objective of preservation can be achieved either by a development which makes a positive contribution to the area's character or appearance, "

Policy DC18.1 of the Unitary Development Plan for Manchester states that the Council will give particularly careful consideration to development proposals within Conservation Areas, specifically stating that:

a. The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:

i) the relationship of new structures to neighbouring buildings and spaces;

ii) the effect of major changes to the appearance of existing buildings;

iii) the desirability of retaining existing features, such as boundary walls, gardens, trees, (including street trees);

iv) the effect of signs and advertisements;

v) any further guidance on specific areas which has been approved by the Council.

b. The Council will not normally grant outline planning permission for development within Conservation Areas.

c. Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance of character of the area.

d. Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.

e. Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

Demolition is not normally encouraged and when considering applications for demolition the main issue is the preserving or enhancing of the character and appearance of the area in question and the wider effects of the demolition on

the buildings surroundings and on the Conservation Area as a whole. When demolition is being considered the new development of the site is also important and should be of at least comparable quality to that which was therefore before.

The local planning authority have had regard to the documentation submitted with both the Planning Application and the Conservation Area Consent, responses from consultees and residents and have conducted a site inspection.

It is considered that the development proposed would enhance the appearance of the Blackburn Park Conservation Area, having regard to the condition of the current building on site (which had already been constructed at the time of the Conservation Area being designated), which at best makes a neutral contribute to the character of the conservation area and having regard to the design, scale, mass and materials to be used in the proposed scheme.

Every effort has been made to bed the proposed building into the environment, the building being lowered in height, set into the ground, moved away from the shared boundaries, landscaped and furnished with a sedum roof.

With regards to the comments made by David Manley QC in regards to earlier plans, querying the legality of the Section 106 agreement, it is considered that the building is acceptable in its own right with regards to its impact upon the character of the Blackburn Park Conservation Area. The Community Use referred to later in this report would be secured as additional benefit and in no way offers mitigation for the development proposed.

### **Residential Amenity**

As stated in the objections received, concerns have been expressed with regards to the impact of the proposed development upon residential amenity.

Policy H2.2 of the Unitary Development Plan for Manchester states that the Council will not allow development, which will have an unacceptable impact upon residential areas. Issues to be considered include the scale and appearance of the development.

It is considered that the development would represent an improvement over the presence of the existing building to residents, the proposed building having a lower green roof (albeit over a larger footprint) with landscaping in place to screen the building, subject to appropriate and enforceable conditions.

Information has been submitted to accompany the application, which shows the Shadow Projections and passage of light throughout the year available to the property known as No. 5a Parkfield Road South. It is not considered that the development proposed would have an adverse impact upon the light available to the property.

It is not considered that the facility would lead to a perceptible increase in traffic, users of the building using the existing access at the corner of Palatine Road and Lapwing Lane, where an ample car parking facility exists.

The applicants have agreed to ensure the impact of both demolition and construction are limited as far as possible through agreeing routes for vehicles, wheel washing, road sweeping and hours of working.

## **Landscaping**

### **Green Roof**

The proposal involves the installation of a green roof to the whole of the building to reduce the perceived scale and mass of the building and make the building appropriate within the context of the Blackburn Park Conservation Area.

The Landscape Architect wholly supports the principle of the green roof, subject to a bespoke condition that the development accords with FFL standards (Forschungsgesellschaft Landschaftsentwicklung Landschaftsbau). These are standards set out in Germany, where this approach to large scale green roof treatment has had success.

Concerns were expressed by residents in relation to Fire Safety issues in regards to the Green Roof. The Building Control Officer initially shared these concerns.

As a result the Green Roof proposed has been altered, it would be irrigated to prevent Fire and Fire Spread to adjoining residential properties. It is not felt appropriate to impose a condition with regards to the fire hydrants and fire detection and alarm systems, as this would be a matter for Building Control.

Whilst this does affect the sustainability credentials of the proposed building, the water running off into the drainage system, the aim of the Green Roof in this instance was to ameliorate the impact of the building upon the visual amenities of the Conservation Area. Whilst it is regrettable that the roof will not be as sustainable as previously hoped, fire safety is of paramount consideration.

Some concern has been expressed by residents in relation to the loss of habitat for bats and nesting birds, which currently use the ivy covering the existing building, however, those species that exist at present can be protected by condition. The green roof proposed will offer an alternative habitat opportunity for wildlife.

### **Trees**

With regards to the tree planting proposed, the applicant has taken on board the suggestion that whilst native tree planting is usually desirable, in this instance medium size trees with intervening evergreen species would be more appropriate with regards to screening the building. Consideration has been given to the fact that the current building is entirely screened from properties on Elm Road by an existing bund of evergreen trees measuring some 16m in height. The final details of tree species are to be agreed as part of a negotiated landscaping scheme.

There were concerns in relation to earlier landscaping schemes to the shared boundaries with 5a Parkfield Road South and properties to the north of Elm Road. However, a fire escape and landscaped pathway that was to run around the building were relocated and removed to enable landscaping sufficient space

to mature. Concerns relating to the ability of trees to mature to the shared boundary with 5A Parkfield Road South have been further alleviated by current plans that now show a separation distance of 5.075m. A condition is attached to this permission that ensures the altered fire escapes will be fully accessible in line with DfA2.

#### Enforcement

With regards to comments received from residents about landscaping to the building approved in 1995, the applicant has agreed as part of this application to the imposition of a Grampian Condition that would see the introduction of planting boxes to successfully complete the screening of the 1995 building. Agreed in a letter dated 24 July 2008 from the applicant's agent.

#### Community Use

Work has been undertaken to agree a Community Use Agreement between the Northern Lawn Tennis Club and Leisure services.

Historically, as referred to earlier in this report, consent was granted for a development in 1995 for a two storey extension to existing club house, single storey building to form two indoor courts with a link corridor, first floor extension to squash courts and additional car parking. A Community Use Agreement was drawn up however it was not detailed enough to tie the club into meaningful Community Use provision. The Community Use Agreement being tied by covenant rather than an enforceable Section 106 agreement. This has led to concern with regards to the current proposals.

The opportunity has been taken in this instance to draw up a meaningful Section 106 agreement relating to the use of the whole site.

#### Community Use Details (In Summary)

The unenforceable covenant agreement referred to above required 12 free hours and 74 hours at an agreed charge each week (86 hours in total not specified peak or none peak).

The new Section 106 agreement would see:

- Increased hours by 33 hours (to 119 average per week), a 38% increase
- 12 hours of which would be free peak use hours on top of the existing 12 free hours (24 free hours in total)
- The community use (38% increase) would be proportionally greater than the increase in capacity (number of hours of use gained by the introduction of the new development) which would see an 11% increase.
- Specific targeting to encourage participation by non-traditional groups of Manchester residents, who would normally not take part in tennis related activities. For example, local schools have previously benefited from outreach sessions, both at the schools and the club, and this will be extended. These programmes will be developed in conjunction with the Council's Sports Development Team. Other groups include: - Positive Futures groups, health referral groups, special schools and local tennis clubs as identified by Manchester Leisure.

## **Need**

Queries had been raised by residents about the need for three indoor courts (original submission), and the suitability of the size of those courts with regards to Lawn Tennis Association standards.

A letter of support for the scheme from the Head of Leisure was received on 4th November stating that:

“Manchester Leisure have a long and well established partnership with the Northern over the past eight years since phase 1 development. This is a good example of how a traditional sports club and local authority can work together. Not only have the club an excellent track record in tennis development and performance. They have ensured an open door policy with regards to community use. An excellent example of this is the partnership with Manchester City Tennis Club, based in Wythenshawe Park.

The Northern is part of our five-year tennis strategy for Manchester Leisure. The club have been targeted as one of two key performance centres for the City. The club’s success in producing junior players, up to international standard, has been recognised by the LTA with Performance Accreditation.

Finally, due to ongoing success achieved since phase one, in order to provide more playing, coaching and competitive opportunities for both the growing membership and the local community / school links, it is essential that the club provides more all year round facilities. As one of the premier tennis clubs in the country, it is vitally important for both the City of Manchester and the club, that the Northern stays in the forefront of British Tennis.”

Further to the abovementioned letter, the consultation response from Leisure included earlier in this report makes it clear that the development proposed would be instrumental in meeting a shortfall for indoor tennis provision.

Notwithstanding the comments above from Leisure, two letters have been received from the Lawn Tennis Association dated 22nd October 2008 and 11th November 2005 (when the application was originally submitted) stating that the “layout will allow the courts to fit within the proposed footprint and provide a court dedicated to junior play” which “would meet the Lawn Tennis Association size criteria with regard to the footprint of the building” and that “ if the project was to be reduced to 2 indoor courts then the project would have to be approved by the Lawn Tennis Association Funding Committee, and could prove difficult to achieve the approval criteria.”

The number of courts being applied for is fully supported by Leisure Services, the Lawn Tennis Association and further by Sports England.

Following the resolution of Planning and Highways Committee on March 12<sup>th</sup> 2009, the Northern Lawn Tennis Association amended their proposals to show 2 double courts and 1 single court.

The comments of Leisure Services are still applicable with regards to need, the Lawn Tennis Association have stated in their letter dated 1<sup>st</sup> April 2009 that “the

Lawn Tennis Association would not favour a net gain of a single indoor court. Due to the limited resources that the Lawn Tennis Association has available and the high cost of constructing two indoor courts, it would not represent a good enough return on Investment. The Lawn Tennis Association would still consider funding an indoor project comprising two doubles courts and a singles court dedicated to mini tennis and coaching, subject to a Funding Committee decision.” Sports England have restated their support for the revised plans.

Residents have previously submitted a copy of a letter from the Lawn Tennis Association (dated 21 November 2008) that states they would “not be able to make a funding commitment to either of the proposed projects (a two court scheme / a three court scheme) at this time as we have not had a formal funding application.”

Policy L1.1 of the Unitary Development Plan for Manchester states that, the Council will work with the private sector, Central Government and other institutions to facilitate the provision of a range of high quality multi-purpose indoor sporting facilities, which meet the needs of all people in the City, including some facilities of international standard. These should be located to provide a distribution which is accessible by public transport to all the communities of Manchester.

It is considered that the approval of this application would meet the terms of adopted policy.

#### Heads of Terms for the Section 106 Agreement

- A community use agreement relating to the whole of the Northern Lawn Tennis Club site, as set out in this report under Community Use Details.
- The taking out of a bond by the Northern Lawn Tennis Club to guarantee the cost of the Green Roof and Landscaping and ensure its delivery.

#### **Conclusion**

A recommendation of Minded to Approve is made subject to appropriate conditions and the signing of a Section 106 agreement committing the Northern Lawn Tennis Club to a Community Use Agreement that will meaningfully provide Community Use for residents of Manchester City, and ensure the implication of the Green Roof and Landscaping.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person’s home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by

being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**Recommendation** Minded to Approve subject to the signing of a Section 106 agreement that would secure Community Use for residents of Manchester City.

The proposed development by virtue of its design, Green Roof and Landscaping would enhance the visual amenities of the Blackburn Park Conservation Area of which the site forms part and would not materially harm residential amenity in the locality, in accordance with Policies DC18.1 and H2.2 of the Unitary Development Plan for Manchester and National Planning Policy Guidance Note 15: Planning and the Historic Environment.

### **Conditions and/or Reasons**

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

Reason - To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy H2.2 of the Manchester Unitary Development Plan.

3. No development that is hereby approved shall commence unless and until samples and specifications of all materials to be used on all external elevations of the development have been submitted to and approved in writing by the City Council as local planning authority. The development shall be constructed only using the approved materials unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policy H2.2 of the Unitary Development Plan for the City of Manchester.

4. No development shall commence until there has been submitted to, and approved in writing by, the Local Planning Authority a scheme of landscaping, which shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities.

In addition, all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall include seeding with a Native British Wildflower Flora mix appropriate to the soil and climate of the site.

Reason - In the interests of amenity and of the environment of the development, and in order to ensure compliance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason - In the interests of amenity and of the environment of the development and in order to ensure compliance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

6. No development, including site works of any description, shall commence on the site (and before any equipment, machinery or materials are brought onto the site) until all the existing trees or hedges to be retained on the site have been protected by a fence, to be approved in writing by the Local Planning Authority, erected around each tree or group of vegetation at a radius from the bole or boles of 5 metres or such distance as may be agreed in writing by the Local Planning Authority. This fencing shall be maintained until all equipment, machinery, surplus materials and soil have been removed from the site. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon without the prior written approval of the Local Planning Authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25 mm or more shall be left unsevered.

Reason - To ensure the retention and maintenance of trees and vegetation which is an important feature of the area, to ensure compliance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

7. In this condition "retained tree means an existing tree or hedge which is to be retained in accordance with the approved plans and

particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.

i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS3998 (Tree Work).

ii) If any retained tree is removed, uprooted or destroyed or dies, replacement tree shall be planted at the same place, or as agreed with the local planning authority, and the trees shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

iii) Prior to the commencement of any demolition or construction operations on site (including operations associated with the provision of approved drainage details) an arboriculture method statement that accords with the principles and recommendations within BS 5837(2005):'Trees in relation to construction Recommendations" and current best arboricultural practice shall be submitted to and approved in writing by the Local Planning Authority. This method statement shall detail the methods relevant and necessary to ensure the protection, retention and long-term health of the retained trees. To ensure the efficacy of the arboricultural method statement, details relating to on-site supervision and monitoring of tree protection methods shall also be included.

The approved scheme shall be implemented on site prior to the commencement of works and retained for the duration of the works.

Reason - In the interests of amenities and of the environment of the development.

8. Notwithstanding the approved plans, full details of the Green Roof to be installed (including details of irrigation) shall be submitted to and approved in writing by the Local Planning Authority, prior to commencement of development. The development shall be implemented in accordance with the approved details, unless otherwise agreed in writing.

Reason - To ensure that the Green Roof is successful, safeguarding the amenities of the area.

9. No development shall commence until there has been submitted to, agreed and approved in writing by the Local Planning Authority a scheme to augment the existing landscaping for the existing indoor court building on site, which shall include details of planting boxes to be mounted on the west elevation, a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities.

Reason - In the interests of amenity and of the environment of the development, and in order to ensure compliance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

10. External lighting shall be designed and installed so as to control glare and overspill onto nearby residential properties.

Reason – To safeguard the amenities of the occupiers of nearby properties.

11. Before the development hereby approved commences, the building, together with any externally mounted ancillary equipment, shall be acoustically insulated in accordance with a scheme submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the site/property.

Externally mounted ancillary plant, equipment and servicing shall be acoustically treated in accordance with a scheme designed so as to achieve a noise level of 5Db below the existing background (LA90) in each octave band at the nearest noise sensitive location.

Reason – To safeguard the amenities of the occupiers of nearby residential accommodation.

12. No works which are audible at the site boundary relating to the construction of the development hereby approved, including works of demolition and site clearance shall take place except between the hours of 7.30 to 19:30 Monday to Friday and 08:00 to 16:30 on Saturdays. No construction (including demolition works) shall be carried out on Sundays or recognised public holidays unless otherwise agreed in writing by the local planning authority.

Reason - To protect the amenities of the occupiers of nearby properties during the demolition and construction period.

13. No part of the development hereby granted permission shall be commenced unless and until a survey of the site in a form and carried out by a person previously approved in writing by the local planning authority has been carried out and demonstrates to the local planning authorities written satisfaction that no protected species inhabit the site. Should the survey reveal the presence of any protected species, a scheme for the protection of their habitat or the provision of alternative habitat, shall be submitted to and agreed in writing by the City Council as local planning authority before the development commences, and implemented in full in accordance with the approved details and to a timetable agreed in writing by the local planning authority. Details submitted shall also provide for the protection of nesting birds.

Reason - To ensure the protection of habitat of species that are protected under the Wildlife and Countryside Act 1981 or as

subsequently amended in order to comply with Policies E2.2, E2.3 and E2.4 of the adopted Manchester Unitary Development Plan.

14. Before the development hereby permitted is commenced a scheme showing the provision to be made for disabled people to gain access to the building; and including route widths, levels and gradients, shall have been submitted to and approved by the City Council as local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason - To ensure that satisfactory disabled access is provided by reference to the provisions of the Unitary Development Plan for the City of Manchester Policies and The Guide to Development in Manchester.

15. The details of an emergency telephone contact number for the site contractor shall be displayed in a publicly accessible location on the site from the commencement of development until construction works are complete unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To prevent detrimental impact on the amenity of nearby residents and in the interests of local amenity in order to comply with Policy H2.2 of the Unitary Development Plan for the City of Manchester.

16. The wheels of construction contractor's vehicles leaving the site shall be cleaned and the access roads leading to the site swept daily in accordance with a management scheme submitted to and approved in writing by the City Council as local planning authority prior to any works commencing on site.

Reason - In the interest of pedestrian and highway safety, as specified in policy H2.2 of the Unitary Development Plan for the City of Manchester.

17. No development shall commence until details of the measures to be incorporated into the development (or phase thereof) to demonstrate how secure by design accreditation will be achieved have been submitted to and approved in writing by the City Council as local planning authority. The development shall only be carried out in accordance with these approved details. The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of a secure by design accreditation.

Reason - To reduce the risk of crime pursuant to Policy E3.5 of the Unitary Development Plan of the City of Manchester and to reflect the guidance contained in Planning Policy Statement "Delivering Sustainable Development."

#### **Local Government (Access to Information) Act 1985**

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 077757/FO/2005/S2 held by planning or are City Council planning policies, the Unitary Development Plan for the City of

Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

**The following residents, businesses and other third parties in the area were consulted/notified on the application:**

Manchester Leisure  
Environment & Operations (Trees)  
Network Rail  
Didsbury Civic Society  
Blackburn Park Conservation Society  
West Didsbury Residents Association  
Head of Environmental Health  
Greater Manchester Police  
Chief Executive's Landscape Practice Group  
Sport England (NW Region)  
GMC Fire Service

341 addresses have been notified of the application.

**14 Objections have been received from 13 separate addresses at:**

27 Elm Road, Didsbury, Manchester, M20 6XD  
6 Pine Road, Didsbury, Manchester, M20 6UY  
50 Old Lansdowne Road, Manchester, M20 2WU  
6 Elm Road, Didsbury, Manchester, M20 6XB  
33 Parkfield Road South, Didsbury, M20 6DH  
7 Wolseley Place, Didsbury, Manchester, M20 3LR  
12 Linden Road, Didsbury  
Flat 5 Stonecroft, Parkfield Road South, Didsbury, M20 6DA  
7 Parkfield Lodge, Parkfield Road South, Manchester, M20 6DD  
660 Wilmslow Road, Didsbury, Manchester, M20 2DN  
18 Parkfield Road South, Didsbury, Manchester, M20 6DH  
31 Parkfield Road South, Didsbury, Manchester, M20 6DH  
2 Stonecroft, Parkfield Road South, Didsbury, Manchester, M20 6DA

**124 expressions of support have been received and a petition with 161 signatures, all letters are placed on file.**

**Relevant Contact Officer :** Jennifer Connor  
**Telephone number :** 0161 234 4545  
**Email :** j.connor3@manchester.gov.uk