

<u>No:</u>	BH2024/02477	<u>Ward:</u>	Westdene & Hove Park Ward
<u>App Type:</u>	Council Development (Full Planning)		
<u>Address:</u>	Withdean Sports Complex Tongdean Lane Brighton BN1 5JD		
<u>Proposal:</u>	Re-surfacing of tarmacadam MUGA (Multi Use Games Area) sports pitch. Replacement of existing 2700mm height chain link fencing with 3000mm height 'duo-8' fencing. Painted line-markings and surface colour of pitch changes. Installation of new floodlights, mesh wind-screening, storage container and wheelchair access.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	01.11.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	27.12.2024
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Brighton & Hove City Council Hove Town Hall Norton Road Hove BN3 4AH		
<u>Applicant:</u>	Brighton & Hove City Council Hove Town Hall Norton Road Hove BN3 4AH		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location and block plan	000		21 January 2025
Proposed Drawing	002		22 November 2024
Proposed Drawing	003		22 November 2024
Proposed Drawing	004		22 November 2024

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

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan (TPP), shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and for biodiversity and sustainability reasons, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10 and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

4.

- i) Prior to the installation of the floodlighting hereby approved, details including levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance shall be submitted to the Local Planning Authority for approval in writing.
- ii) Prior to first use of the floodlighting hereby approved, the predicted illuminance levels (as agreed under part i) of this condition) shall be tested by a competent person to ensure that they are achieved. Where the predicted levels are met, confirmation shall be demonstrated to the Local Planning Authority for approval in writing. Where predicted levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i). The external lighting shall be installed, operated, and maintained in accordance with the approved details and thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

5. The development hereby permitted shall not be used except between the hours of 07:00 and 22:00 on Mondays to Fridays, and except between the hours of 08:00 and 22:00 on Saturdays, Sundays and Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part Two.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION

- 2.1. The application relates to an existing multi-use-games-area (MUGA) at Withdean Sports Complex, at the northern side of the curtilage of the Complex. The MUGA measures 36.5m by 18.5m and is bounded by a chain-link fence of 2.7m height. There are four existing floodlights set on columns rising to a height of 10m.

- 2.2. The upper car park for the Sports Complex lies to the west of the MUGA, with vehicular access from the Tongdean Lane site entrance to the north of the site. Between the site and Tongdean Lane there are several mature trees and a timber boundary fence. A second, larger MUGA (with fencing and floodlights) adjoins the site to the south, and there is an area of soft landscaping to the east, also within the Sports Complex curtilage, and the lower car park beyond.
- 2.3. Beyond the Sports Complex, there are residential properties on the opposite side of Tongdean Lane to the north, and on Tongdean Lane and Shepherds Croft to the west. The railway line embankment is to the far east and the Withdean Woods Local Nature Reserve is to the far south, but in both cases with considerable separation from the site.
- 2.4. Although long established as a MUGA, the site recently hosted a temporary padel court with a purpose-built inner enclosure. This court and enclosure have since been removed from the site.

3. RELEVANT HISTORY

- 3.1. None identified for the area of the Withdean Sports Complex to which this application relates.

Within the wider Withdean Sports Complex:

- 3.2. **BH2022/03439** - Creation of a small-sided football facility with 4no. pitches, improved drainage and associated features including ball stop fencing and entrance gates, a storage container, 16no. LED floodlights, 3no. covered spectator shelters, cycle parking, hard-standing areas and vehicular access. Approved 08/06/2023
- 3.3. **BH2022/02972** - Erection of 3no. canopy-covered padel tennis courts incorporating 12no. floodlights and associated works. Approved 06/07/2023

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for:
- Replacement of the existing tarmac MUGA surface with porous tarmacadam
 - Replacement of the existing 2.7m high chainlink fencing with a 3m high wire mesh fence with wind-screening
 - Replacement floodlights on relocated 10m high columns
 - Installation of a storage container to the north of the MUGA
- 4.2. The MUGA would remain as a multi-use facility.
- 4.3. Amended plans have been received to correct inconsistencies of the heights of the proposed floodlight columns, to adjust the location of the proposed container and to correct the site boundary.

5. REPRESENTATIONS

- 5.1. **Fifteen (15)** letters of objection have been received, summarised as follows:
- Previous padel court caused nuisance, pickleball courts are also noisy
 - No noise impact assessment carried out
 - Inappropriate use for the area
 - Visual impact of proposed new surface and container
 - Damage to trees
 - Inconsistencies on the drawings
 - Surface water flooding concerns
 - Loss of property value
- 5.2. **Sixteen (16)** letters of support have been received, summarised as follows:
- Improved sports facilities welcomed
 - Pickleball is a growing sport and there are no other suitable facilities in the city
- 5.3. Full details of representations received can be found online on the planning register.
- 5.4. **Councillor Lyons** has submitted a letter of neutral comment. A copy of the representation is attached.

6. CONSULTATIONS

- 6.1. **Environmental Health:** No objection
The refurbishment works could generate noise, vibration and dust, potential sources of these issues need to be identified, and adequate mitigation put in place to reduce disruption to residents in the area.
- 6.2. The applicant should be aware that the choice of playing surface is critical to managing noise issues arising from some kinds of sporting activities and there could be conflicting requirements between sports. For example, the harder macadam surfaces usually preferred for tennis amplify the sound of harder plastic pickleball balls bouncing off the ground and a rubber/foam type court surface may better minimise these sounds.
- 6.3. The new light installation should be designed to provide the right amount of light for the level of play and illuminate only the area desired.
- 6.4. **Sustainable Transport:** No objection
- 6.5. **Tourism and Leisure:** No objection
- 6.6. **Sussex Police Community Safety:** No objection
No concerns or comments to make from a crime prevention viewpoint.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013, revised October 2024);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP12	Urban design
CP17	Sports provision

Brighton & Hove City Plan Part Two

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM43	Sustainable Drainage

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the visual impact of the proposals and the impact upon neighbouring amenity.

Principle of Development:

- 9.2. Withdean Sports Complex is a large leisure centre providing a wide range of indoor and outdoor facilities for public use. The Sports Complex is recognised as a major sporting venue within Policy CP17 Brighton & Hove City Plan Part

One and is identified as the location of the 'North Hub' in the Brighton & Hove City Council Sports Facilities Investment Plan (2021-2031).

- 9.3. The Multi-Use-Games-Area (MUGA) to which this application relates is an established part of the Sports Complex and forms part of the existing offer of outdoor sports facilities.
- 9.4. The proposals comprise the upgrading and refurbishment of the MUGA. The proposal does not include any change of use, nor is any enlargement or relocation of the MUGA proposed.
- 9.5. The enhancement of the outdoor sports facilities and spaces at Withdean Sports Complex would be in accordance with the aims and objectives of Policy CP17 and would be supported in principle.

Design and Appearance:

The proposed alterations comprise:

- Replacement of the existing 2.7m chainlink fencing with 3m wire mesh fencing with wind breakers
 - Replacement of the four existing 10m floodlight columns with four 10m columns in the MUGA corners
 - Installation of a 2.6m high container to the north of the MUGA for storing sports equipment
 - Replacement of the existing tarmac surface with a porous tarmac
- 9.6. The proposed replacement fencing would match the fencing on the neighbouring tennis courts in terms of height, colour (dark green) and the inclusion of wind breakers. The replacement would be of a modestly greater height (0.3m greater) than the existing chainlink fencing, and the inclusion of wind breakers would increase its visual solidity. However, the height, colour and appearance of the proposed fencing is considered appropriate for this leisure centre location, and it is considered that this element of the proposals would not result in any harm to the appearance or character of the site.
 - 9.7. The proposed floodlight columns would be of the same number and height as the existing columns and would be of the same slender profile. The location of the replacement columns on the corners of the MUGA, rather than on the northern and southern sides, is not anticipated to meaningfully impact the appearance of the site.
 - 9.8. The proposed storage container would be in a dark green colour and would be located between the MUGA and the raised bank of Tongdean Lane. Visibility of the container from outside the site would be limited due to this bank, the boundary fence and the mature tree screening. Whilst somewhat utilitarian, it is considered that the container would not harm the appearance of the site or wider area.
 - 9.9. The existing MUGA surface is a black/grey tarmac, and the proposed surface is indicated to be a porous tarmac in a green and purple finish. This would match

the finish of the larger MUGA adjoining to the south and would not be objectionable in terms of design and appearance.

- 9.10. The proposals are therefore considered acceptable in terms of design and appearance.

Impact on Amenity:

- 9.11. Policy DM20 of the City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.12. Withdean Sports Complex is an established indoor and outdoor sports facility and from the outset it should be noted that the proposals relate to an existing Multi-Use-Games-Area which already forms part of the outdoor sports offer of the site. The use of the MUGA for the playing of outdoor sports is therefore established and does not form part of the considerations for this application.
- 9.13. Whilst it is recognised that activity on the MUGA would likely be audible from nearby residential dwellings, it is not unreasonable to expect there to be some level of noise arising from a public leisure centre, particularly with outdoor sports facilities. The proposals would not enlarge the MUGA, nor would the MUGA be moved any closer to neighbouring dwellings. The MUGA is already floodlit. It is therefore considered that the proposed development would not result in an increased impact compared to the activity that could take place on the site currently.
- 9.14. It is also recognised that the range of different sports played on the MUGA could result in different levels and types of noise, depending on the character of the sport and the equipment being used. However, the range of different sports that could be played is not currently subject to any restriction, and the proposal is for the MUGA to remain as a multi-use space. It should be noted that the configuration of the painted line markings is outside the remit of the Planning regime, and the markings indicated within the drawings are considered as being for information purposes only. If in the future the operator of the Sports Complex were to revise the line markings, this would not require planning permission. It is therefore considered that restricting the types of sports that could be played on the MUGA would not be necessary or reasonable.
- 9.15. The proposed hours of use of the MUGA are from 7am-10pm Mondays to Fridays and from 8am-8pm on Saturdays, Sundays and bank holidays. This is considered acceptable, aligning with the permitted opening hours of the sports complex and other recent developments on the wider site such as the new football pitches and padel courts.
- 9.16. The applicant has confirmed that the replacement fencing would include noise dampening fittings. This would be an improvement on the existing fencing which does not include noise dampening.

- 9.17. It is therefore considered that the proposal would be acceptable in terms of any resultant noise disturbance. It should however be noted that the council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.
- 9.18. The modestly increased height of the fencing would be unlikely to result in any significant impact on neighbouring amenity. The fence would be a lightweight structure with good visible permeability and would be set on lower ground than the nearest residential neighbours which are on the opposite side of Tongdean Road to the north. The more visually solid windbreak membrane would not reach to the full height of the fence. The proposed floodlight columns would be of the same height and number as the existing columns. The revised locations would not be significantly closer to sensitive neighbours and the profile of the columns remains slender. No impact in terms of overshadowing or loss of light is therefore anticipated.
- 9.19. No significant concerns are held regarding potential light spill from the new floodlights, subject to a condition securing the submission of light spill details to the LPA for approval, prior to first use to ensure that the floodlighting complies with industry guidance in accordance with the comments of the Environmental Health team. The proposed luminaires would be equal in number and height to the existing floodlights and would be more modern LED versions enabling a more efficient light spread. The relocation of the floodlight columns to the corners of the pitch would not bring the luminaires closer to the nearby residential dwellings, and it is noted that there is already a high amount of floodlighting across the rest of the site.

Other Considerations:

- 9.20. It is considered that there are no significant transport implications for the proposed development, as the proposal relates to an existing MUGA that forms part of the current sports offer. There is unlikely to be a material change in the demand for car or cycle parking on site as a result of the replacement fences and floodlighting.
- 9.21. It is noted that the comments of the Environmental Health consultee have requested that conditions be attached to secure details such as a Construction Environmental Management Plan (CEMP) and a Noise Management Plan.
- 9.22. However, national planning guidance makes clear that planning conditions should only be used where six tests are satisfied. These tests include that conditions must be reasonable, necessary and relevant to the development to be permitted.
- 9.23. In this case, the proposed development that is requiring planning permission comprises the replacement MUGA surfacing, the replacement fencing, the replacement floodlights and the storage container. These operations are of a relatively minor scale, with ready access available from the vehicular site entrance onto Tongdean Lane. It is therefore considered that a CEMP would not be reasonable or necessary to secure in this case and it is noted that the council Transport Team has not raised site access during works as a concern. As the

proposed development does not include any enlargement, relocation or intensification of the use of the MUGA, it is considered that a Noise Management Plan would similarly not be reasonable, relevant or necessary to secure in this case.

- 9.24. The proposed storage container would be located nearby to the mature tree planting on the northern boundary of the site, providing screening onto Tongdean Lane. The container would be mounted on blocks with no excavation proposed. The Council's Arboriculture team have reviewed the proposal and have raised no objection to the container, with the ground on which it is to be placed comprising a soil/gravel mix that is unlikely to have any significant root volume that might be impacted by the weight of the container. In accordance with the Arboriculture comments, a condition is attached to secure protection measures for the retained trees.
- 9.25. The proposals include the relocation of the pedestrian access gate to the MUGA a short distance to enable step-free access. This is supported from an accessibility perspective.
- 9.26. The replacement of the existing non-porous surface with a porous tarmac would help to improve drainage across the site.
- 9.27. The concerns raised in some of the public representations regarding potential noise disturbance are noted. In particular, the matter of the previous use as a padel court and concerns regarding future use for playing pickleball.
- 9.28. It is noted that a temporary padel court built within the MUGA was previously found to be a cause of harmful noise nuisance. It is understood that this padel court included a purpose-built inner enclosure and that this was the likely source of much of the identified noise. This temporary padel court has since been removed from the site, with three permanent padel courts having been granted planning permission under BH2022/02972 in a revised location.
- 9.29. The application states that the intention is for the MUGA to remain as a multi-use facility rather than to be dedicated to any particular sport. Moreover, the actual sports that are offered for play on the MUGA are a matter for the Sports Complex operator. The MUGA could be marked up and used for playing pickleball without the development proposed as part of this application.

10. CONCLUSION

- 10.1. The proposed enhancement of the sports facilities at Withdean Sports Complex would comply with Policy CP17 of the City Plan Part One and is supported in principle. No concerns are held regarding the design and appearance of the proposals, and no significant impact upon neighbouring amenity has been identified. Accordingly, the application is recommended for approval, subject to conditions.

Biodiversity Net Gain

- 10.2. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because:
- It does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat;

11. EQUALITIES

- 11.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.