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<b>Kings Hill</b> Kings Hill	<b>567415 155323</b>	<b>19.07.2005</b>	<b>TM/05/02130/FL</b>
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Proposal:	Two tennis courts and associated fencing
Location:	Land To West Of Neighbourhood Play Area Gibson Drive Kings Hill West Malling Kent
Applicant:	Rouse Kent (Residential) Ltd

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## **1. Description:**

- 1.1 This proposal is for the construction of 2 public tennis courts. These are to be hard-surfaced with two-tone "leisuretex" macadam. Heavy-duty chain link fencing/gates 2.75m high will be erected around each court. There will be a gap of 16m between the 2 courts.
- 1.2 The applicant has submitted a supporting statement:
- *The existing public tennis courts in Churchill Square require significant work to the surface and outer fencing.*
  - *This proposal will replace them closer to the new recreational area on Gibson Drive.*
  - *The provision of the courts is made pursuant to clause 4.7.3 (B) of the s 106 legal agreement for TM/97/1183/OA.*

## **2. The Site:**

- 2.1 The site is immediately west of the neighbourhood play area currently being constructed opposite the Kings Hill Centre. To the south is an area of sweet chestnut coppice with a primary school beyond. To the west is an office building within Churchill Square.
- 2.2 The application site comprises an area being used as a works compound for construction of the play area and an area of grass and an abandoned tarmac road junction.
- 2.3 There are a number of trees on the centre of the site. One large cherry tree is to be felled (tree report shows it to be of safety concern due to large forks in the canopy). Similarly, a birch is to be felled as the tree report states it does not show signs of a safe useful life expectancy. A sweet chestnut tree is to be pruned of overhanging branches. Three flowering cherry trees are to be replanted together with a laurel hedge on the western side.

- 2.4 The site is subject to policies P2/2(a), P2/2(e), P5/5(c) and P5/23(c) of the TMBLP. These allocate the majority of the site as part of the mixed-use central area for Kings Hill with a small section falling within the business/hotel/conference zone.

**3. Planning History (selected):**

- 3.1 TM/89/1655 Approved 12.06.1990  
Mixed use development, comprising business use, with ancillary storage and ancillary distribution (use class B1); residential (C3); Hotel/conference centre (C1); convenience retail (A1 and A3); financial and professional services (A2); Residential education and training facilities (C2) creche (D1) leisure (D2) sports and recreation facilities, open spaces and landscaping, new access on approx 647 acres with ancillary road works.
- 3.2 TM/97/01183/OA Approved 30.06.1998 (subject to S106 agreement)  
Outline Application: residential (approx 1300 dwellings), community hall, together with ancillary formal playing areas, open spaces, landscaping and road works.
- 3.3 TM/03/02781/FL Approved 24.11.2003  
Neighbourhood play area.
- 3.4 TM/05/00494/ORM Approved 21.03.2005.  
Amended layout of play area to that permitted under planning permission ref. TM/03/02781/FL (neighbourhood play area).
- 3.5 TM/05/02548/FL Current  
New amenities building to serve existing and recently refurbished offices (*at Churchill Square*).

**4. Consultees:**

- 4.1 DL: I accept the point made by the Parish Council that there is a need to make adequate provision for older children and I would support the provision of a skate park at Kings Hill. However, no objections are raised to this application, subject to these courts being provided for public use, available to all, as opposed to the private club facilities of the David Lloyd Centre.
- 4.2 KCC (Highways): No objections.
- 4.3 DHH: No objections.
- 4.4 PC: Concerns as follows: The area where the proposed tennis courts are to be sited is next to a Play Area and Ball Park which has been designed and installed by Liberty UK Ltd to meet their obligations under the S106 agreement. Unfortunately the Play Area which is supposed to accommodate children aged 8 - 14 years is of a low standard and does not meet with the 6 acre standard specification for that age group. Regrettably, the PC feels that Liberty UK Ltd has failed to meet their obligations. The area should contain 8 types of play equipment

which provide a challenge, a kick about area and wheeled play opportunities, none of which are present in the current NEAP in Gibson Drive. We would suggest that the area for the proposed tennis courts is used to provide facilities for the 8 - 14 age group as there are no amenities specifically for this group on Kings Hill. We would recommend that the area is multi-purpose, comprising of challenging equipment in one half and some features in the other half to accommodate wheeled play opportunities such as facilities for skateboards, roller skating or bicycles. Kent Police, Liberty UK Ltd and ourselves have all received complaints about older children using wheeled equipment and creating a disturbance in Liberty Square and in the car park of David Lloyd Leisure Ltd. It would appear obvious that the solution would be to provide an area where the children can practice their skills without causing a disturbance (which is also the opinion of Kent Police) and we would suggest that the area proposed in Gibson Drive would meet these criteria. It is situated away from the residential area and the Parish Council is currently working with a company of architects to extend the Community Hall to provide a Youth & Pre-School facility, which we hope to achieve by the end of 2006. It would be ideal and sensible to have all facilities aimed at this age group contained in the same vicinity. The young people of Kings Hill have already expressed a desire for facilities for skateboarding and have signed a petition, which shows the amount of support the proposal has. A copy of the petition which was organised by a teenage resident on Kings Hill is enclosed. We would also question the need to install public tennis courts. We have been informed that the public courts nearby in Borough Green are very rarely used and would question the necessity of providing tennis courts in this area. With the recent opening of David Lloyd Leisure Ltd there are 10 tennis courts, 5 of which are inside, available to the residents of Kings Hill. Any serious tennis player would use these facilities as they are able to play all year, as opposed to the proposed courts which during the winter would become redundant. It would also be unlikely that the Parish Council would agree to take over responsibility of the proposed tennis courts if approached by Liberty UK Ltd.

- 4.5 Private Reps (10/1R/0X/0S) + Art 8 site notice; One objection has been received stating that there is already a public tennis court facility on Kings Hill as well as the new leisure centre that serious players would join. A skatepark is needed somewhere on Kings Hill so that young people have a place to go and skate.
- 4.6 A petition has also been received via the PC. It has 70 signatures in favour of a skate park to be built next to the ball park in Kings Hill.

## **5. Determining Issues:**

- 5.1 The main determining issue is whether this site is appropriate for a recreational use. As the applicant is submitting this application as partial discharge of a S106 obligation, a related issue is the degree of compliance with the terms of the legal agreement.

- 5.2 The majority of the application site is located in an area designated for mixed uses, one of which is recreation and leisure facilities. A small part of the site (approx. one half of one court) lies in the business zone. In my view, this application does not prejudice the provision of business development as this is a narrow strip of land alongside an office building to Churchill Square which would not in itself easily accommodate commercial development.
- 5.3 Hence in planning policy terms, the proposal is acceptable in principle. It is noted that the PC and a local resident are of the opinion that a skatepark would be a preferred alternative but I am of the view the particular type of leisure development sought by the applicant is policy compliant.
- 5.4 In regard to the S106, this requires that the developer makes provision for outdoor sport in accordance with a specification to be agreed with the Council. An interim strategy was that the pre-existing Churchill Square courts be “upgraded and made available to the residents of Kings Hill, remaining so until other tennis courts are provided elsewhere”.
- 5.5 It is now the case that the existing public tennis courts would be lost as part of a current application for development for an amenities building for Churchill Square. The current application before Members amounts to proposing the replacement of those courts at an alternative location.
- 5.6 I note the PC’s comments that the recent opening of the David Lloyd Leisure Club provides both indoor and outdoor tennis courts for Kings Hill. However, the courts proposed in the Central Area are to be for the informal/casual use by the public and allow for a more casual type of recreation. I understand that the existing courts have continued to be used by local residents and workers on Kings Hill since the David Lloyd Centre has opened.
- 5.7 I am therefore of the view that the provision of these tennis courts would meet the relevant clause of the S106 legal agreement and an alternative to the private courts at the David Lloyd Centre. Accordingly I feel able to support the application.
- 5.8 Turning to other matters, the tree report shows adequate safety justification for the removal of 2 trees bearing in mind the intended public use of the immediate locality. A landscaping condition is suggested.
- 5.9 The site is sufficiently far from residential property such that there is no harm to amenity. No flood lighting is proposed in this application.
- 5.10 Members will note that the PC also criticises the quality of the play area on the adjoining site. This is not of relevance to the determination of this application and, in any event, DL is of the view that the play area does meet the criteria set out in the NPFA 6 Acre Standard.

5.11 I can understand that the PC would wish to secure a skateboard park. The provision of such a facility may be desirable but is not an obligation on Liberty through any legal requirement arising from previous grants of planning permission. The fact that such a facility has not been provided is not a reason to resiting these replacement tennis courts.

**6. Recommendation:**

6.1 **Grant Planning Permission** as detailed by tree report, supporting statement, site location plan and typical images, all date stamped 06.07.2005, subject to the following conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 The scheme of landscaping and boundary treatment shown on the approved plans shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 10 years of planting 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. (L002)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

3 All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for 10 years thereafter. (L011)

Reason: In the interests of good forestry and amenity.

4 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years. (L006)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 5 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority. (D003\*)

Reason: To ensure that the development does not harm the visual amenity of the locality.

- 6 The tennis courts hereby approved shall be retained for casual/informal usage and shall not be let to any club or organisation so as to make them unavailable for public use.

Reason: To ensure that the courts comply with the S106 legal agreement attached to planning permission TM/97/01183/OA.

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