The Planning Inspectorate

# Appeal Decision

Site visit made on 8 September 2016

**by Kevin Gleeson BA MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31 October 2016**

**Appeal Ref: APP/K3605/W/16/3149300**
**Danes Hill School, Leatherhead Road, Oxshott, Leatherhead, Surrey KT22 0JG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by the Vernon Educational Trust against Elmbridge Borough Council.
- The application Ref 2014/2639, dated 27 June 2014, was refused by notice dated 13 November 2015.
- The development proposed is new sports centre to incorporate an indoor swimming pool, sports hall, gymnasium, changing facilities, storage and ancillary facilities and landscaping.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:

   a) Whether the proposed development would represent inappropriate development in the Green Belt;

   b) The effect of the proposal on the openness of the Green Belt; and

   c) If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

## Reasons

*Whether Inappropriate Development*

3. The proposal is to develop a new sports centre following the demolition of existing facilities which include an outdoor swimming pool. The proposed development would be three storeys in height and would amount to approximately 3,885sq.m of development. It would be approximately 30m wide, 80m in length and have a maximum height of approximately 10m, whilst recognising a considerable change in levels across the site.

4. Most of the appeal site is within the Green Belt with approximately 20% within the settlement boundary of Oxshott. The appellant indicates that as much of the development has been located outside of the Green Belt as possible, taking account of other constraints and I have no reason to dispute this.

5. Paragraph 87 of the National Planning Policy Framework (the Framework) indicates that inappropriate development within the Green Belt is by definition harmful and should not be approved except in very special circumstances. In paragraph 89 of the Framework it is stated that the construction of new buildings in the Green Belt should be considered as inappropriate subject to a number of exceptions.

6. Approximately 648sq.m (21%) of the proposed development which is within the Green Belt would be replacement accommodation for buildings within the Green Belt which would be demolished. Consequently this element of the scheme would fall to be considered within bullet point four of paragraph 89 of the Framework which considers development not to be inappropriate where it involves *'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'*. Policy DM18 (b) of the Elmbridge Development Management Plan (DMP), 2015 in addressing the development of existing buildings in the Green Belt, also indicates that this element of the proposal would not be inappropriate development.

7. It is also the case that the existing swimming pool, which is covered in winter months, together with ancillary buildings and areas of hard surfaces can be considered to be previously developed land within the definition in Annex 2 of the Framework. Bullet point six of paragraph 89 of the Framework therefore applies. This states that *'the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use…, which would not have a greater impact on the openness of the Green Belt, and the purpose of including land within it than the existing development'*, will not be inappropriate development. The effect on openness is considered below.

8. In addition, approximately 167sq.m (5.4%) of the building which would be within the Green Belt is designed to be capable for use in association with the outdoor playing fields for changing and would therefore be an acceptable use within the Green Belt *'as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it'* in accordance with bullet point two of paragraph 89 of the Framework and Policy DM17 (b) of the DMP. The policy requires built development for outdoor sport to demonstrate that the building's function is ancillary and appropriate to the use and that it would not be practical to re-use or adapt any existing buildings on the site.

9. It is accepted by the appellant that the balance of the proposed building which is within the Green Belt is not 'appropriate' development with reference to paragraph 89 of the Framework. This amounts to approximately 1345sq.m. As set out in Policy DM17 of the DMP which addresses new buildings in the Green Belt and paragraph 87 of the Framework, inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

*Openness of the Green Belt*

10. Paragraph 79 of the Framework states that the essential characteristics of Green Belts are their openness and permanence. The concept of openness relates to the lack of development or built form.

11. The purposes of including land in the Green Belt, as set out at paragraph 80 include: to check the unrestricted sprawl of large built up areas; to assist in

safeguarding the countryside from encroachment; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

12. In terms of these purposes the only one which is relevant to the proposed development is to assist in safeguarding the countryside from encroachment. In this case part of the site has existing development on it and any encroachment would not be substantial. However, consideration also needs to be given to the impact on openness.

13. The proposed development has been carefully and skilfully designed to take account of topography to ensure that except when viewed from the north the above ground elements only appear to be a single storey structure, thereby reducing the visible bulk of the proposal. The proposed materials, curved green roof and landscaped setting would all ensure that the visual impact would be minimised. Located within the general context of the existing swimming pool and other structures in the vicinity the proposed development would not detract from the visual characteristics of the school or adversely impact upon the character of the area. Additionally, as demonstrated through the appellant's Landscape and Visual Impact Assessment it would have a negligible visual impact after mitigation and views of the building from public vantage points would also be very limited.

14. However, the fact that the proposed development is not intrusive visually does not mean that it does not affect the openness of the Green Belt. By the appellant's own calculations the balance of development within the Green Belt to be used for indoor sports and ancillary purposes when the areas of land outside of the Green Belt, replacement facilities and external use associated with the sports fields are deducted amounts to 1345sq.m. On the basis of its scale and development footprint, whilst taking account of the existing development on the appeal site and the context of neighbouring buildings, I find that the proposed development would significantly reduce the openness of the Green Belt contrary to paragraph 79 of the Framework, which would add to the substantial harm to the Green Belt by virtue of inappropriateness.

15. Policy DM17 (b) of the DMP, which relates to part of the development, requires built development for outdoor sport to be sited and designed to minimise the impact on the openness of the Green Belt and to include a high quality landscaped scheme. In this respect I find that the impact on openness would be significant in spite of the quality of the landscaping.

16. Policy DM17 (c) states that proposals for the partial or complete redevelopment of previously developed sites will be considered in the light of the size, height, type, layout and impact of existing buildings and structures, and hard standing, together with the degree of dispersal throughout the site of existing and proposed development. In this case I find that, in spite of sitting low in the landscape and being sympathetically designed and landscaped the size and height of the proposed development would be much greater than the existing brownfield development and overall there would be a substantial net reduction in openness which would add to the harm caused by the inappropriate development.

*Very Special Circumstances*

17. Paragraph 88 of the Framework states that very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other

harm, is clearly outweighed by other considerations. The significant harm caused by reason of inappropriateness and the harm to openness together carry substantial weight against the proposed development.

18. Based on the size of the proposed development and other site constraints it has been demonstrated that there are no alternative non-Green Belt locations within the school site which could provide a location for the proposed sports centre. Additionally, it does not appear possible for that part of the proposed development which is not within the Green Belt to be increased whilst meeting other objectives. There would also be operational benefits associated with the proposed location arising from its relationship to other sporting facilities.

19. The need for the proposed sports centre has been justified on the basis that existing facilities are sub-standard and fail to address the requirements of the school in serving the local community. Furthermore the need has been justified in terms of meeting the requirements of the sporting curriculum, providing an indoor standard which matches the standard of outdoor facilities, allowing other indoor facilities on the site which are used for sports to provide other functions and to provide appropriate standards of swimming facilities and outdoor changing facilities. In addition, the enhanced sports facilities would also address a number of government initiatives which place a greater emphasis on sport and education particularly for young people.

20. The proposals would not be in conflict with Policy CS16 of the Elmbridge Core Strategy, 2011 which supports the appropriate intensification of existing independent school sites. In addition, the proposal would be in line with Policy DM9 of the DMP which supports development for social and community facilities including schools subject to various criteria which would be met in this case.

21. The proposals would also address the Framework requirements to promote healthy communities, widen choice in education and would provide improved sports and recreational provision which would outweigh the loss of the existing swimming pool. Also counting in favour of the scheme is the general support of Sport England.

22. The appellant has provided justification for the size of the proposed sports hall by reference to Sport England's specification and meeting the school's minimum requirements whilst ensuring that the development is no larger than necessary. Within this context I have no reason to find that the proposal is unnecessarily larger than the purposes for which it is designed.

23. The appellant has identified an opportunity for the proposed sports centre to be used by the Royal Kent Church of England Primary School in order that the benefits of the proposed development could be extended to the wider community. This would provide for the Royal Kent to have exclusive use of the swimming pool for one whole day per week during term time. This community use could be secured through the signed and dated unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which the appellant has submitted. Other community benefits would arise from the proposal to allow pupils from the pre-preparatory Bevendean School limited access to the sports centre and for the facilities to be used for activity clubs during school holidays when children from other schools could use the facilities. I consider that these initiatives would not result in any adverse impacts on the

proposed operation the sports centre and would also carry some weight in favour of the proposal.

24. The considerations in favour of the proposal are generally elements which would benefit the school including the pre-preparatory school. These largely relate to the standard of sports facilities which would be provided and the resultant efficiencies in terms of the management of sport and other school activities. The provision of improved facilities would also benefit the school in terms of its attractiveness in comparison with other schools. The proposal would also potentially bring wider benefits to society in terms of enhanced health and wellbeing in accordance with a number of government objectives. The offer to allow the Royal Kent to use the facilities and for the facilities to be available for activity clubs during school holidays would be a benefit of the proposal which was not before the Council when it refused the application.

25. Whilst the proposed development would result in clear benefits to the school, potential benefits to society in terms of health and wellbeing and benefits to neighbouring schools these largely local benefits are not of sufficient weight to clearly outweigh the harm I have found and the conflict with the local and national Green Belt policies which I have identified. As a result they do not represent the very special circumstances necessary to justify inappropriate development in the Green Belt.

**Other Matters**

26. I have been referred to cases of other schools in Surrey where it is suggested that indoor sports facilities have been allowed on the basis of considerations which constituted very special circumstances. However, I do not have full details of the circumstances which led to these proposals being acceptable so I cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of scale and location. In any case I have determined the appeal on its own merits.

**Conclusion**

27. I have found that there are no very special circumstances in this case which would be sufficient to justify the proposal. Therefore, for the reasons set out, and having taken into account all other matters raised, including the considerable support for the proposal, I conclude that the appeal should be dismissed.

*Kevin Gleeson*

INSPECTOR