

Appeal Decision

Site visit made on 14 February 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 23 February 2017

Appeal Ref: APP/V1505/W/16/3161760

Glen Innes, Ramsden Park Road, Ramsden, Billericay CM11 1NS

- 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 Mr and Mrs Carnaby against the decision of Basildon Borough Council.
 - The application Ref 16/00590/FULL, dated 14 April 2016, was refused by notice dated 1 August 2016.
 - The development proposed is described as 'Retrospective application for change of use of private swimming pool to commercial pool for swimming classes.'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of private swimming pool to commercial pool for swimming classes at Glen Innes, Ramsden Park Road, Ramsden, Billericay CM11 1NS in accordance with the terms of the application, Ref 16/00590/FULL, dated 14 April 2016, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The change of use for which planning permission is sought has already taken place.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt; and the effects of the proposal on
 - highway safety;
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance;
 - the character and appearance of the area.

Reasons

Whether inappropriate development?

4. The appeal property is a detached dwelling on a substantial plot. To the rear of the dwelling are a number of free standing buildings including the building which accommodates the indoor swimming pool which is the subject of the appeal. This part of the site is within the Green Belt. The pool was originally
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used in association with the dwelling, but is now operated on a commercial basis. The appeal proposal does not include any physical works.

5. There is no dispute that a change of use has taken place or that the swimming pool building is other than permanent and substantially constructed. Nor is there a dispute that the re-use of such buildings is not inappropriate development for the purposes of paragraph 90 of the National Planning Policy Framework (the Framework). Saved Policy GB7 of the Basildon District Local Plan 2007 (LP) allows of the re-use or adaptation of suitable buildings in the Green Belt, subject to considerations including any harm to residential and visual amenity and the physical and environmental capacity of the highway network to accommodate additional vehicle movements. The Council does not allege any conflict with Policy GB7 and I deal with matters of character and appearance, living conditions and highway safety below.
6. The Council does not allege that the change of use itself is inappropriate development, but considers that it has given rise to inappropriate development in the form an extension to the building and additional hard surfacing used for car parking and that this has reduced the openness of the Green Belt. However, those works are not part of the appeal proposal and the available evidence indicates that they were carried out more than four years ago. As such, the outcome this appeal will not alter the lawfulness or otherwise of those works or their effect on the Green Belt. Therefore, I consider that they should not be taken into account in determining whether or not the proposal is inappropriate development in the Green Belt.
7. On this basis, I find that the appeal proposal is not inappropriate development in the Green Belt. Consequently, it does not need to be justified by very special circumstances.

Highway Safety

8. The appellant's statement outlines the natural of the commercial use of the pool for teaching children or those with special needs to swim. It states that the pool is not used by more than seven people at one time and does not provide swimming for the general public.
9. The appellant's evidence includes the results of surveys undertaken at Easter, Spring and Summer 2016. It found that average daily occupancy of the pool ranged between 3.6 and 5.5 people. A parking survey in Autumn term 2016 found that average daily parking demand ranged from 3.1 to 4.2 cars. Whilst this information has not been independently verified, I have no reason to doubt that it provides a reasonable characterisation of the level of use of the facility.
10. Moreover, the officer report to committee found that the number of vehicle movements generated by the use is low. The number of people using the pool and its hours of operation could be controlled by condition.
11. I saw on the site visit that there are adequate parking spaces within the site to accommodate the number visiting vehicles. Visibility at the access from the site to Ramsden Park Road is also adequate and I noted on the site visit that the appellant has installed signage advising drivers to limit their speed to 10mph. There is nothing at the entrance to the site to indicate the commercial use and there some suggestion that visitors may miss the turning and travel

further along the road. Discreet signage at the entrance would help to eliminate this issue.

12. Whilst Ramsden Park Road is fairly narrow, it has informal passing places and traffic speeds and volumes appear to be low. One local resident has referred to 'near miss' accidents involving traffic from the pool. However, there is no evidence of recorded accidents in the area as a result of the appeal proposal or for any other reason. I also note that there is local support for the proposal and that Essex County Council highways department did not object to the proposal.
13. The change of use has generated additional vehicle movements compared with the domestic use of the pool. However, the balance of evidence indicates that the number of movements is low and has not led to highway safety problems. With conditions to control the scale of use of the pool and the provision of speed and direction signage for drivers, I find that the proposal would not have a detrimental effect on highway safety. Consequently it would not conflict with LP Policy GB7 or Policy BAS BE12 insofar as they seek to ensure highway safety.

Living Conditions

14. I have already found that the number of visitors to the pool and associated vehicle movements is low. Considered in the context of the general level of vehicle movements along Ramsden Park Road, and the fact that most dwellings are set well back from the road, I consider that the number of movements generated by the change of use is not sufficient to lead to harmful levels of noise and disturbance for the occupiers of other dwellings along the road.
15. The site, including the access drive and parking area, is contained by reasonably substantial planting and fencing which would help to contain noise and disturbance from vehicle movements within the site. A condition restricting vehicles visiting the site for the commercial use of the pool to the access on the east side of the site would also assist in this regard. Noise from activity in the pool itself is largely contained by the building.
16. Concern has been expressed regarding noise from pool parties. However, the appellant states that these have not taken place recently and are not planned in the future. Moreover, it is notable that neither of the occupiers of the properties immediately adjoining the site has objected to the proposal. Nor has the Council's Environmental Health Officer objected.
17. The appellant states that the hours of operation of the pool are limited to 0930 to 1300 and 1530 to 1700 Mondays to Fridays and 0900 to 1400 on Sundays and not at all during school holidays. It has been suggested that the pool is used outside of these times. However, I will impose a condition limiting the hours of commercial use of the pool to those stated by the appellant. This will prevent any commercial activity at unsociable times.
18. With this measure in place, I consider that the proposal would not be harmful to the living conditions of neighbouring occupiers by reason of noise and disturbance. As such, it would not conflict with LP Policies GB7 or BAS BE12 to the extent that they presume against development which would cause harm to residential amenity, including through noise or disturbance.

Character and Appearance

19. The change of use introduces a commercial activity into a residential area. Nevertheless, it does not result in any physical works which may impact on the appearance of the area. I have also found that it would be acceptable with regard to matters which might affect the character of the area, such as vehicle movements and noise and disturbance. The use intensifies the amount of car parking on the site. However, the parking area is visually well contained.
20. Concern has been expressed that allowing the proposal would set a precedent for other commercial uses. However, no evidence of comparable proposals has been provided and each application or appeal must be considered on its merits. Therefore, I conclude that the proposal would not be harmful to the character and appearance of the area. As such, it would not conflict with LP Policy GB7 to the extent that it seeks to safeguard the openness and visual amenity of the Green Belt or BAS BE12 insofar as it presumes against development which would harm the character of the surrounding area.

Other Matters

21. Concern has been expressed that a modelling agency/TV agency is being run from the swimming pool and that starting the commercial business without planning permission is an abuse of the planning system. This appeal concerns the use of the swimming pool for commercial swimming classes only. Its use as a modelling/TV agency would need to be the subject of a separate application. The planning system allows for applications and appeals to be made after a use or development has commenced.

Conditions

22. The Council has suggested a list of conditions. Since the proposal does not include physical works, a condition requiring the development to be retained in accordance with the approved plans is unnecessary. Nor has it been demonstrated that a condition requiring the access to be kept free of obstacles is necessary. With amendments for clarity and enforceability, I find that the remaining conditions meet the tests set out in the Planning Practice Guidance.
23. I have already referred to the need for conditions to the control hours of operation and the access to the site in order to safeguard the living conditions of neighbouring occupiers as well as conditions for the provision of signage in the interests of highway safety. A condition limiting the number of people using the pool for commercial purposes is required for both of those reasons.

Conclusion

24. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
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Glen Innes, Ramsden Park Road, Ramsden, Billericay CM11 1NS**

- 1) The commercial use of the pool shall not take place outside the hours of 0930 to 1300 and 1530 to 1700 on Mondays to Fridays and 0900 to 1400 on Sundays and not at all during school holidays.
- 2) The commercial use of the pool shall be restricted to not more than seven users in any one session.
- 3) Vehicles visiting the site for the commercial use of the pool shall use the access on the east side of the site only.
- 4) Exact details of the designated customer parking area and signposting within the site shall be submitted in writing to the local planning authority within two months of the date of this decision. The customer parking area and signposting shall be implemented in accordance with the approved details within one month of receipt of the local planning authority approval and shall be maintained as such thereafter.
- 5) Details of signage or other feature to discreetly identify the entrance to the site shall be submitted in writing to the local planning authority within two months of the date of this decision. The signage or other feature shall be implemented in accordance with the approved details within one month of receipt of the local planning authority approval and shall be maintained thereafter.
- 6) Details and the location of signage advising drivers on the low speed limit and respect for neighbouring residents shall be submitted in writing to the local planning authority within two months of the date of this decision. The signage shall be implemented in accordance with the approved details within one month of receipt of the local planning authority approval and shall be maintained thereafter.