
Appeal Decisions

Site visit made on 7 January 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 2nd April 2020.

Appeal A Ref: APP/M3645/W/19/3238336

Long Acres Caravan and Camping Park, Newchapel Road, Lingfield RH7 6LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr C Pilkington against the decision of Tandridge District Council.
 - The application Ref TA/2018/2148, dated 31 October 2018, was refused by notice dated 4 April 2019.
 - The application sought planning permission for demolition of the existing house, garage and reception buildings and the erection of a replacement house including associated parking and landscaping without complying with a condition attached to planning permission Ref TA/2016/2133, dated 3 February 2017.
 - The condition in dispute is No 7 which states that: Before the development hereby approved is occupied, the existing dwelling and all other buildings shown to be demolished on the submitted application particulars shall be demolished and the land shall be restored in accordance with the application details. Thereafter there shall be only one dwelling being lived in within the area edged red on the site plan attached to the application.
 - The reason given for the condition is: To accord with the terms of the application and to ensure that the proposed dwelling is a replacement of, and not additional to, the existing dwelling and other buildings on the site and to maintain the openness of the Green Belt in accordance with Policy CSP18 of the Tandridge District Core Strategy 2008 and Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014.
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Appeal B Ref: APP/M3645/W/19/3238328

Long Acres Caravan and Camping Park, Newchapel Road, Lingfield RH7 6LE

- 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 C Pilkington against the decision of Tandridge District Council.
 - The application Ref TA/2018/2136, dated 26 September 2018, was refused by notice dated 4 April 2019.
 - The development proposed is retention and conversion of an existing building to provide a reception area, communal hall and kitchen and accessible toilet and shower facilities.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Background and Preliminary Matters

2. Planning permission was granted in 2016 (the 2016 permission) for a replacement dwelling on the appeal site (Ref. 2016/0973), which was not implemented. Demolition of the existing dwelling and other buildings on the site formed part of the justification for the 2016 permission.
3. A second permission for a replacement dwelling was granted in 2017 (Ref. 2016/2133, the 2017 permission) which has been built. It incorporated minor design changes and a basement compared to the 2016 permission. The Council determined that the dwelling would be materially larger than the combined volume of the buildings it was to replace and was therefore inappropriate development. However, the Council identified that there would be improvements to the openness of the Green Belt from the new dwelling being sited further from the main road in a less prominent location and from the site of the existing dwelling becoming an open landscaped area. The existing permission was also a factor. Consequently, the Council was satisfied that very special circumstances had been demonstrated to justify the replacement dwelling despite harm to the Green Belt.
4. Appeal A seeks to vary the disputed condition to allow the retention of part of what was the original dwelling. As it has now been vacated and made uninhabitable, I refer to it as the former dwelling in these decisions. Appeal B seeks to alter the retained building and use it as facilities for the caravan and camping park. I have considered each proposal on its own merits. However to avoid duplication, where appropriate I have dealt with the two schemes together.

Main Issues

5. The main issue for Appeal A is whether the disputed condition is necessary and reasonable to protect the openness of the Green Belt and the character and appearance of the area.
6. The main issues for Appeal B are:
 - i) whether the proposal would be inappropriate development in the Green Belt including the effect upon openness;
 - ii) the effect of the proposal on the character and appearance of the area;
 - iii) the effect of the proposal on protected species; and
 - iv) if the proposed development is inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Appeal A

7. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework

- sets out that openness is one of the essential characteristics of the Green Belt¹ and requires that substantial weight be given to any harm to the Green Belt².
8. The disputed condition was imposed to ensure that the new dwelling was a direct replacement of the former dwelling and other buildings, to maintain the openness of the Green Belt, improve the character and appearance of the area and to ensure that no more than one dwelling was occupied on the site.
 9. The northern section of the appeal site comprises an open area for caravans and tents, which has a spacious, green character. The former dwelling is set in one corner and is clearly visible from the road through the access. The new dwelling is set well back into the site and consequently, although larger than the former dwelling, it is not particularly prominent in views from the road. Further south behind substantial evergreen hedges are commercial buildings, a bungalow, accommodation and facilities blocks associated with the caravan and camping park. These hedges provide a clear visual separation between the open area and the more built up land behind.
 10. As the new dwelling has already been built and occupied, the site of the former dwelling is required by the disputed condition to be demolished and laid out as a grassed area. This would reduce the amount of built form on this part of the site. While restoration of the site would provide only a relatively small area of grass, it would connect the undeveloped areas around the former dwellings to form a larger open space, helping to mitigate the impact of the new dwelling. The retention of the central part of the former dwelling along with the new dwelling would inevitably result in more built form being present on the site than if it were demolished. This cumulative impact would result in the site being significantly less open, both spatially and visually, than if the condition were complied with. It would also reduce the amount of open, green space and as such detract from the character and appearance of the site and immediate area.
 11. The appellant now proposes to also demolish a greenhouse, coal bunker and, if I were to deem it necessary, a toilet and shower block. The greenhouse and coal bunker are small structures and the toilet and shower block is a modest single storey building with a low roof. Although not particularly attractive and somewhat overgrown, the structures are well screened by the former dwelling and vegetation around them. Consequently, they do not have a significant adverse visual impact.
 12. From the plans provided it is evident that their combined volume is substantially less than that of the section of former dwelling to be retained. Consequently, their demolition would only partially offset the loss of openness resulting from retaining the building. It would not result in any material benefit to the character and appearance of the area or compensate for the failure to provide the open, green space required by the condition.
 13. Accordingly, the condition is necessary and reasonable to protect the openness of the Green Belt and the character and appearance of the area. This harm would not be mitigated by the additional demolition now proposed. I therefore find conflict with Policies DP7 of the Tandridge District Local Plan Part 2: Detailed Policies 2014 (LPP2) and CSP18 of the Tandridge District Core

¹ Paragraph 133

² Paragraph 144

Strategy 2008 (CS) which amongst other things, require development to integrate with its surroundings and respect the character, setting and local context. Although cited in the Council's first reason for refusal, LPP2 Policy DP13 is not relevant to this appeal as the proposal does not involve any of the types of development specified.

Appeal B

Whether or not the proposal would be inappropriate development

14. The proposal in Appeal B would involve the re-use of the existing building, subject to the condition in Appeal A, but the building exists in breach of the condition. Framework paragraph 146d) provides that re-use of buildings is not inappropriate development in the Green Belt provided that the buildings are of permanent and substantial construction, preserve its openness and do not conflict with the purposes of including land within it.
15. I have no reason to believe that the building is not of permanent and substantial construction. However, as the building is not lawful, and as I am dismissing the appeal for the removal of the condition, it follows that its retention would not preserve the openness of the Green Belt as there would be a building where there should be none, regardless of any alterations to make it smaller. Therefore, the proposal would be inappropriate development within the Green Belt.
16. Although it has been suggested that the proposal should be considered as if it is a new building providing facilities for outdoor recreation, no new building is proposed. However, in order for it not to be inappropriate, it would need to preserve the openness of the Green Belt in accordance with Framework paragraph 145 (b) and I have already concluded that it would not. For the same reason it would not constitute infilling of previously developed land as paragraph 145 (g) requires infilling to have no greater impact upon openness than the existing development. Therefore, whether I had considered it as a conversion or a new building, the outcome on this matter would be the same.

Character and appearance

17. I have found in respect of Appeal A that retaining part of the former dwelling would harm the character and appearance of the area. The proposal would see the retained building reduced in height and clad in natural materials, resulting in a relatively innocuous design. However, it's structure would represent an increase in built development and urbanisation of the site, and a reduction in the amount of open, green space. Although the hedges around the site boundaries would limit the extent of this impact, nonetheless the proposed building would be highly visible from the access.
18. Therefore, the proposal would harm the character and appearance of the area and countryside and conflict with LPP2 Policy DP7 and CS Policies CSP18 and CSP21.

Ecology

19. The former dwelling has timber boarding on the gable ends and tile hanging on the dormer cheeks, both of which are identified in Natural England's standing advice as features suitable for bats. There is therefore a reasonable likelihood

that bats are present. Due to the extent of alterations proposed to the building, any bats present are likely to be affected by the development.

20. Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. It goes on to set out that surveys should only be required by condition in exceptional circumstances³. No protected species survey has been carried out for this proposal or for the previous applications. Consequently, there is insufficient information to determine whether bats would be affected by Appeal B. It is not therefore possible to confirm that the proposal would meet the derogation tests set out in the Habitats Regulations or those in Framework paragraph 175.
21. Accordingly, I conclude that there is an unacceptable risk that the proposed development would harm protected species. The proposal therefore conflicts with LPP2 Policy DP19 and CS Policy CSP17, which seek to protect biodiversity and resist development affecting protected species unless the species involved will not be harmed or appropriate mitigation measures can be put in place.
22. There is no condition on the 2017 permission requiring a protected species survey before demolition of the former dwelling. In determining Appeal A under S73A of the Act however, I can only consider the condition that is disputed. In these circumstances, the absence of such a condition on the existing planning permission does not overcome the requirement to provide the necessary information for Appeal B.

Other considerations

23. The appellant contends that the retained building would provide much needed facilities to improve the day to day running of the park and would enable the business to compete with others in the area that offer better facilities. It is likely that improved facilities would provide economic benefits for the business and that customers expect good quality facilities. Framework paragraph 83 requires planning decisions to enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Having regard to Framework Paragraph 80 the support for economic growth can be afforded moderate weight.
24. The proposal would provide additional facilities for outdoor recreation, thereby enhancing the beneficial use of the Green Belt having regard to Framework paragraph 141. However, given the modest scale of development proposed, I give this only a small amount of weight.
25. The provision of accessible showers and toilets would address the needs of people with disabilities and reduced mobility. While the Council suggests that such facilities exist in a building elsewhere on the site, I note there is some dispute about its planning status. In any event, that building is at the far end of the appeal site, some distance from the open camping area and the site of the former dwelling. As such, provision of accessible facilities close to customers using this part of the site would be a clear benefit of the scheme, to which I attach significant weight.

³ Paragraph 99

26. The appellant suggests that the retained building would be fitted with solar water heaters. While efficient use of resources and use of renewable energy are supported by the Framework, no solar water heaters are shown on the submitted drawings or mentioned in the description of development, so I give this factor minimal weight.

Conclusions

27. As I have found the condition necessary and reasonable, Appeal A is dismissed.
28. Turning to Appeal B, I have found that the proposal would represent inappropriate development in the Green Belt. This, by definition, would cause harm to which I must attach substantial weight. It would also result in the potential for harm to protected species and would harm the character and appearance of the area. The other considerations, taken together, do not outweigh the totality of the harm. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
29. For these reasons, Appeal B is also dismissed.

L McKay

INSPECTOR