



Appeal Decision

Site visit made on 17 December 2019

by D Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2020

Appeal Ref: APP/M3645/W/19/3236145

Land to the East of Champions Place, Kent Hatch Lane, Limpsfield Chart, Oxted, RH8 0TA

- 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 James Anwyl Brockowski against the decision of Tandridge District Council.
 - The application Ref: TA/2019/12 dated 20 December 2018, was refused by notice dated 18 March 2019.
 - The development proposed is described as erection of a new house of exceptional quality with associated driveway and landscaping on land at Champions Place, Kent Hatch Road, Limpsfield.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The applicant's name from the original planning application form and Council's decision notice is set out in the banner heading above. The named appellant in the appellant's appeal form is Mr Rodger Sparkes. A letter from the named applicant confirms an error in the planning application form. However, only the original applicant has the right to appeal the decision and this cannot be transferred. Therefore, the appeal proceeds in the name of Mr James Anwyl.
3. The address in the planning application form refers to the postcode as being RT8 0TA. However, this is incorrect and, in the banner heading above I have used the postcode from the appellant's appeal form.
4. The appellant has submitted additional information and amended proposals in the form of an Arboricultural Survey and Planning Integration Report, and a plan (226-A-3-1.1 Rev C) showing a tennis court (within the appeal site) and a container and greenhouse on land within the grounds of Champions Place but outside the appeal site to be removed as part of the proposals.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal upon the setting of the Grade II listed Champions Place as a designated heritage asset;
- whether the proposal would be in a suitable location, having regard to the accessibility of services and facilities; and,
- if the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

6. The appeal site is located within the Metropolitan Green Belt. The National Planning Policy Framework (2019) (the Framework) states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 143). The construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to exceptions set out in paragraph 145. None of these apply to the proposed development.
7. This substantial new dwelling and outdoor areas would be located on an area of grassland and a tennis court within the extensive grounds of a designated heritage asset outside of a settlement. The tennis court forms a small part of the overall appeal site area, with the majority of the site being open grassland, upon which most of the new development would take place. Even if the tennis court were to be considered as an existing building, or previously developed land, the footprint of the development extends considerably beyond this. Therefore, the proposal is regarded as inappropriate development and I note this is not disputed by the appellant.
8. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (July 2014) (the TLP) states that permission for inappropriate development which is by definition harmful will normally be refused, and only permitted where very special circumstances exist that outweigh any potential harm. In so far, they are applicable to this proposal, the relevant criteria of Policy DP13 of the TLP in relation to new and replacement buildings, limited infilling, and redevelopment of previously developed land, include the same criteria as set out in paragraph 145 of the Framework. The approach of these policies is consistent with the Framework in so far as they require the application of national Green Belt policy.
9. For the reasons set out above, the proposal would be inappropriate development in the Green Belt as set out in Policy DP13 of the TLP and the Framework.

Effect upon openness

10. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (paragraph 133). The appeal site comprises a sizeable open area of sloping amenity grassland, mature trees, a fenced tennis court and shallow supporting walls. The

topography and extensive grassland on the appeal site and the wider grounds of Champions Place, means much of the appeal site is inherently open. There is short distance visibility to much of the surrounding grounds of Champions Place and long-distance views across the landscape. For this reason, I disagree with the appellant's Landscape & Visual Impact Assessment (LVIA), that the appeal site does not contribute substantially to the openness of the Green Belt.

11. The proposals involve significant excavations to set the substantial dwelling and the integral double garage under a grass roof and onto the hillside. Some parts of the proposals would be close to at or below ground level, for example including some of the outdoor living space, retaining walls, driveway and circulation areas. However, the overall built form, access and circulation area, heightened landforms, increased engineered contours over existing levels, would lead to a significant loss of openness. Taken as whole the proposals would have a significant adverse impact upon the spatial and visual openness of the Green Belt.
12. The amended proposals include the removal of the hardstanding of the tennis court and some fencing, as well as a container and greenhouse on land within the grounds down the hill from the appeal site, within a small group of buildings. These elements could be removed independently of a planning permission for the dwelling at any time. Being outside the appeal site, there is no legal agreement before me that would be necessary to adequately guarantee their permanent removal, prevent their replacement elsewhere, or detail how the areas would be treated and maintained afterwards. But in any case, their size and location would not adequately mitigate the harm to the openness caused by the proposal.
13. I have not been provided with the details of the use of the container. However, it is likely that the greenhouse and surrounding hardstanding has or had some horticultural function or purpose related to the grounds. The tennis court has or had some sport or recreational function. In principle, their presence does not conflict with the purposes of including land within the Green Belt in paragraph 134 of the Framework. Conversely, this substantial residential development and outdoor living space would be at odds with those purposes, by increasing urbanising development on an open and verdant site.
14. For the reasons set out above the proposals would have an adverse impact upon the openness of the Green Belt. Therefore, the development would conflict with Policy DP13 of the TLP and the Framework, in so far as the policies confirm that openness is an essential characteristic of the Green Belt. They would also conflict with the Green Belt purpose of safeguarding the countryside from encroachment, as set out in the Framework.

Character and appearance

15. The appeal site is located within an Area of Great Landscape Value (AGLV), approximately 200m from the Surrey Hills Area of Outstanding Natural Beauty (the AONB). The AGLV is designated by Policy CSP20 of the Tandridge District Core Strategy (October 2008) (the TCS) as a buffer to the AONB. Policy CSP20 applies the same policy principles in the AGLV as the AONB. In particular, it seeks to conserve and enhance the special landscape character, heritage, distinctiveness and sense of place, as well as protecting the setting of and safeguarding views out of and into the AONB.

16. The existing character and appearance of the appeal site is of a largely undeveloped and open hillside, the tennis court and supporting wall, and some mature trees, forming part of the extensive grounds of a substantial heritage asset. The combination of the heightened and flattened landform, new engineered walls, hard landscaping, incision into the hillside (notwithstanding the use of some Hythe Formation stone), and the substantial modern elevations of the building, would be at odds with the existing character of the appeal site. It would detrimentally alter the existing sloping parkland character and its contribution to the AGLV. Even if it does not result in an illuminated night sky, there would be some adverse impact from lights visible in the large front elevation at night-time.
17. Visibility of the development may be limited from some directions, resulting in a negligible effect from some receptors identified in the LVIA. However, this is not the case for all directions and locations, particularly to the south and west. The LVIA suggests the proposal comprises a direct response to the site's sense of place resulting in a 'Moderate beneficial' effect upon landscape character. However, for the reasons set out above I disagree. I am not persuaded that paraphernalia such as barbeques and benches stationed on the appeal site associated with Champions Place, would be so numerous or substantial, that they would cause any substantial degree of harm, so as to weigh significantly in favour of the proposals.
18. For the reasons set out above, the proposed development would conflict with Policies CSP18 and CSP21 of the TCS and Policy DP7 of the TLP. These policies require that new development must respect the character and setting of and conserve and enhance the character of the landscape. The development would also conflict with Policy CSP 20 of the TCS, which requires that development should conserve and enhance the special landscape character, heritage, distinctiveness and sense of place of the locality within the AGLV, and protect the setting and safeguard views out of and into the AONB.
19. Part of the Council's second reason for refusal refers to the lack of regard and potential harm to some mature and prominent trees. I have noted the views of the Council and its adviser, and contents and conclusions of the Arboricultural Survey and Planning Integration Report. The Report suggests that three Root Protection Areas would be encroached upon to a small degree. However, through suitable protection measures integrated during construction no trees would be lost or harmed. Furthermore, routine maintenance would manage and mitigate post development pressure. Subject to the imposition of the planning condition suggested by the Council to secure the submission of an arboricultural method statement, I am satisfied the proposals would be acceptable in this regard.

Access to services and facilities

20. Policy DP1 of the TLP supports sustainable development. Policy CSP1 of the TCS seeks to promote sustainable travel patterns by locating development in specified settlements, and where there is a choice of mode of transport available and where the distance to travel to services is minimised.
21. The nearest settlement is Limpsfield Chart, a village with a small number of facilities including a public house, village hall, cricket pitch, playground, and a bus stop with services to Oxted and Westerham. The walk to Limpsfield Chart would be in part, up a narrow steep road off of and involve crossing the B269.

Although it is steep, the limited distance may be manageable for prospective occupiers. However, as there are very few facilities in the village, trips to other service centres would be likely to be frequently required. Many services and facilities such as schools, a range of shops, professional services and onward transport links are available in Westerham or Oxted.

22. Walking or cycling to the facilities in Westerham or Oxted would involve a distance of in excess of 3km, requiring the use of significant lengths of unlit national speed limit highway. Journeys to these centres would not be likely to be particularly attractive for pedestrians or cyclists, even for those confident and fit enough to manage the journey. The bus stop in Limsfield Chart is understood to provide an hourly service, although the route and operating hours are not before me.
23. The route to the stop and frequency of services means this would be of limited convenience and appeal to future occupiers, and it is likely that occupiers would tend to rely upon a motor vehicle for such journeys. This would add up to a significant number of vehicular miles per year. While this is not necessarily unusual in rural locations, it would nevertheless be in conflict with a core principle of the Framework which encourages development to take place where the fullest use of walking, cycling and public transport can be made.
24. For the reasons set out above, the development would not be well located in terms of access to services and facilities, it would not minimise the need to travel, and not be likely to encourage sustainable patterns of transport. Therefore, it would conflict with Policy CSP1 of the TCS and Policy DP1 of the TLP, which are consistent with the Framework.

Heritage assets

25. Special regard should be given to the desirability of preserving the setting of Listed Buildings as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 192 of the Framework requires account to be taken of development making a positive contribution to local character. Paragraph 193 requires that when considering the impact upon the significance of a heritage asset great weight should be given to the asset's conservation. Harm to the significance of a designated heritage asset can also derive from development within its setting (paragraph 190). Where a proposal would lead to less than substantial harm to significance, the harm should be weighed against the public benefits of the proposal (paragraph 196).
26. The Grade II listed Champions Place is a large sandstone house with an extensive tiled roof integrating various gables and some hipped gable dormer windows. It benefits from a sizeable terrace with associated walling and steps cited in its listing description, which lead into the grounds. The wider grounds, which includes the appeal site, contribute to its significance as they form part of its extensive parkland and garden setting, giving it an eminence. Although filtered by some mature trees, there is close proximity (approximately 45m) and inter-visibility between Champions Place and the appeal site.
27. The appellant advances the view the development would not harm the setting of Champions Place. However, the development would subdivide the grounds and notwithstanding the careful design and choice of materials, the large darkened modern façade housed within the elevated engineered landform and surrounding hard landscaping would be inharmonious with the character and

appearance of Champions Place and the surrounding parkland setting. The modern appearance and large incision into the grounds at a higher base land level would compete, contrast with and draw attention away from Champions Place. I note the appellant's views of the proposed development and the thoughtfully designed attributes. However, in noting the special architectural and historical characteristics of Champions Way, I do not agree that this development would allow the designated heritage asset to be better understood.

28. Therefore, I consider the proposed development would result in harm to the significance of Champions Place as a designated heritage asset. However, the harm would amount to less than substantial harm, which must be weighed against any public benefits.
29. The proposals would result in some small temporary economic benefits from construction and once built some minor sustained benefit to the local economy. There would be a small benefit through the supply of a single dwelling. The suggested habitat creation benefits from the seeding/planting are likely to be small, although there is not any detail before me in respect of long-term retention and maintenance. There could be some small benefits as a consequence of renewable energy generation. However, the collective benefits attract limited weight and would not outweigh the harm to the setting of the heritage asset which attracts great weight in accordance with paragraph 193 of the Framework. In this regard, the proposals would also conflict with Policy DP20 of the TLP and CSP20 of the TCS.

Other considerations

30. It is advanced that the quality of the proposals is such that it is an outstanding or innovative design, promoting high levels of sustainability, and would help raise the standard of design more generally in the area, attracting significant weight under paragraph 131 of the Framework.
31. I note the integration of the retaining wall proposals, the use of cross laminated timber panels under the grass roof and the position in the hillside. The proposals would also integrate significant sustainability and resilience to climate change measures, through for example, the provision of heathland or acid grassland seed mixes, meeting or exceeding the Passivhaus efficiency thresholds, renewable energy, greywater recycling and maximising solar gain. In these regards the development would meet or exceed the requirements of Policies CSP14, CSP15 and CSP17 of the TCS and Policy DP19 of the TLP. However, given these requirements would generally serve to mitigate the impact of the development or provide only a small positive benefit, these only attract a small amount of weight in favour of the proposal.
32. The objective thought process and 'creative leap' suggested by the appellant could result in the dwelling being the first of its kind in the District. Even if the overall scheme were to result in a design that were to be considered truly outstanding or innovative, by reason of its adverse effect on the Green Belt, the setting of a designated heritage asset, and the character and appearance of the AGLV, it would not significantly enhance its immediate setting and not be sensitive to the defining characteristics of the local area. As the development is not considered to fit in with the overall form and layout of the surroundings, it does not attract significant weight under paragraph 131 of the Framework.

33. With reference to three recent appeal decisions¹, the appellant has highlighted that the Council has a considerable shortfall in respect of being able to demonstrate a 5-year housing land supply. However, the proposed development would make a very small contribution towards rectifying the shortfall. As such, having regard to the level of the shortfall and the social, economic and environmental benefits of the dwelling, this would attract a small amount of weight in favour of the development.
34. Having regard to the quality and the sustainability credentials of the development these would attract a small amount of weight in favour of the proposal. The environmental and economic benefits of the development and the contribution of the dwelling to the provision of new housing would also attract a small amount of weight in favour of the development.

Other Matters

35. I note there are no concerns in respect of highway capacity, safety or parking grounds and I see no reason to disagree. The Preliminary Ecological Appraisal Report (PEA) suggests there would be a negligible impact upon protected species, and I see no evidence that would lead me to an alternative conclusion. However, these are neutral factors in considering the proposals. Although the appellant has alluded to the potential for various opportunities for biodiversity enhancement referenced in the PEA, other than those already referenced above, it is unclear which of those proposals would be implemented and secured in the long term.

Planning Balance & Conclusion

36. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The policies of the Framework are material considerations.
37. Whilst the proposed development is clearly well thought out and carefully designed, it would not be in keeping with the character and appearance of the area and would result in harm to the AGLV. Therefore, it would conflict with Policies CSP18, CSP20 and CSP21 of the TCS and Policy DP7 of the TLP. This attracts significant weight against the proposals.
38. The development would result in harm to the significance of a designated heritage asset, by virtue of the impact upon its setting. In this regard the proposed development would conflict with the Framework and Policy DP20 of the TLP and CSP20 of the TCS. Harm to the significance of a heritage asset attracts great weight. The development would not be well located in terms of access to services and facilities and would conflict with Policy CSP1 of the TCS, Policy DP1 of the TLP and the Framework in this regard. This attracts weight against the proposal.
39. The development would be compliant with or exceed the requirements of Policies CSP14, CSP15 and CSP17 of the TCS and Policy DP19 of the TLP. However, these requirements would generally serve to mitigate the impact of the development or provide only a small positive benefit, so only attract a small amount of weight in favour of the proposal. There is no dispute between the parties that the Council cannot demonstrate a 5-year housing land supply.

¹ APP/M3645/W/18/3198090, APP/M3645/W/18/3205537 and APP/M3645/W/18/3204681

I have been provided with appeal decisions by the appellant that suggest that this shortfall is considerable. The development would only make a small contribution to meeting this shortfall, and the associated benefits are small, therefore it only attracts a small amount of weight.

40. The development would be inappropriate development, which is by definition harmful and would harm the openness of the Green Belt. Whilst there are some benefits to the development these would not amount to very special circumstances to clearly outweigh the harm to the Green Belt. Therefore, the development would conflict with Policies DP10 and DP13 of the TLP and with the Framework. This harm to the Green Belt carries substantial weight against the proposal.
41. In-light of my finding in relation to heritage matters and the Green Belt, the application of policies in the Framework that protect areas or assets of particular importance defined by footnote 6 of paragraph 11, provide a clear reason for refusing the development. Therefore, the proposal is not sustainable development, for the purposes of the Framework and the presumption in favour of sustainable development does not apply.
42. The proposed development would be contrary to the development plan and the National Planning Policy Framework as a whole and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR