



Appeal Decision

Site visit made on 9 June 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/M3645/W/20/3265706

Hare and Hounds Kennels, Lingfield Common Road, Lingfield RH7 6BZ

- 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 carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Henley Finance Limited against the decision of Tandridge District Council.
 - The application Ref TA/2020/1203, dated 8 July 2020, was refused by notice dated 4 December 2020.
 - The application sought planning permission for demolition of existing restaurant and erection of one dwelling without complying with a condition attached to planning permission Ref TA/2018/1085, dated 14 August 2018.
 - The condition in dispute is No 2 which states that: This decision refers to drawings numbered LIN/P/0/10A, LIN/P/1.30C, LIN/P/0.40, LIN/P/1.41C, LIN/P/1.42A, LIN/P/1.43C, LIN/P/1.50C, LIN/P/1.51C, LIN/P/1.81 The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.
 - The reason given for the condition is: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing restaurant and erection of one dwelling at Hare and Hounds Kennels, Lingfield Common Road, Lingfield RH7 6BZ in accordance with the application TA/2020/1203, dated 8 July 2020, without compliance with condition number 2 set out in planning permission Ref TA/2018/1085, granted on 14 August 2018 by Tandridge District Council, but otherwise subject to the conditions in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Henley Finance Limited against Tandridge District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application form indicates that the development had started in May 2020 and works on site were ongoing at my site visit. Therefore condition 2 had been breached before the planning application not to comply with it was made. As such I have dealt with the appeal under S73A.

4. However, the dwelling that was under construction did not appear to be the same as that shown in the plans before me now. For the avoidance of doubt I have determined the appeal on the basis of the submitted plans.
5. This application seeks to vary the plans condition to replace the approved drawings with updated drawings. The changes include the reorientation of the dwelling, the removal of the garage and the increase in the size of terraces and flood voids.
6. I have an amended plan showing a door instead of a window to the side elevation which was not before the Council at the time that it made its decision. The changes reflect what was shown on the floorplans that were before the Council and do not significantly change the development under consideration. The Council has also had the opportunity to comment on this plan during the appeal process and has not raised any objection. For the reasons above, the parties would not be prejudiced if I were to consider these plans, and therefore the appeal is assessed on the basis of the amended plans.

Main Issues

7. The main issues are the effect varying the condition would have on the openness and visual amenities of the Green Belt and the character and appearance of the area.

Reasons

Green Belt

8. I give substantial weight to any harm to the Green Belt. Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 July 2014 (the Local Plan) and para 145d) of the National Planning Policy Framework (February 2019) (the Framework) set out that in the Green Belt a replacement building should not be materially larger than the building it is replacing. I am not directed to any Local Plan policy which sets criteria as to the extent of any increase that would be acceptable.
9. The proposed development would introduce terraces to the east and west elevations with a flood void beneath. However, it would also decrease the footprint of the proposed house and would remove the volume of the approved double garage structure.
10. Whilst the removal of the garage may lead to additional cars on the driveway, such parked cars are a temporary feature and therefore would have a lesser impact on the surroundings than a permanent physical structure.
11. Taking all the above into account there would not be a notable increase in the size of the building as a result of the proposed development, and therefore the proposal would meet the exception at paragraph 145d) of the Framework. Furthermore, due to the minimal overall change to the bulk and form of the development, it would not have a harmful impact on the spatial or visual openness of the Green Belt.
12. Consequently, the variation of the condition would not have a harmful effect on the openness and visual amenities of the Green Belt. Consequently, its variation would be in accordance with Policy DP13 of the Local Plan, the aims of which are set out above, and Policy DP10 of the Local Plan which states that

planning permission for inappropriate development in the Green Belt should be refused, except in very special circumstances.

Character and Appearance

13. Along this part of Lingfield Common Road built development is sporadic and set within rural open land. The site is mainly surrounded by open fields with low level buildings to the east. Homelea is to the west, although this dwelling is visibly separated from the site by planting and open land. Dwellings in the wider area are generally two storey detached dwellings which front the road. However, given their separation, the character and appearance of the appeal site is not strongly influenced by the orientation of these dwellings.
14. The proposed elevation fronting Lingfield Common Road is set back from the boundary and would be separated from the road by landscaping. It includes fenestration which would provide sufficient interest to this elevation. Although the orientation of the proposed dwelling is not conventional, it is not harmful to the character and appearance of the site and its surroundings.
15. The submitted plans show that the ground floor level and overall height of the dwelling would not change and as set out above, the change to the overall volume of the building would be minimal. Consequently, the resultant building would not be overbearing in this location.
16. The proposed development is for a single dwelling. I have no evidence that the property would be occupied as flats and in any case such an application would be considered on its individual merits if it were submitted.
17. The site falls outside the area covered by the Lingfield Village Design Statement (SPG). This guidance suggests that fronts of properties should face existing roads. Whilst this may be applicable in some cases outside Lingfield Village it can be seen above that the orientation of dwellings is not a key part of the character and appearance of this area. As such, the policies listed below are more relevant to the consideration of this main issue.
18. Therefore, the variation of the condition would not have a harmful effect on the character and appearance of the area. In this respect, the proposed development would be in accordance with policies SP18 of the Tandridge District Core Strategy October 2008 (the Core Strategy) and DP7 of the Local Plan which together seek a high standard of design that respect its character, setting and local context.

Other Matters

19. I have no detailed evidence that other similar applications have been submitted. If this were the case they would be considered on their individual merits. The proposed development does not include any changes to the access or car parking arrangements and any means of enclosure, including gateposts, would be controlled via condition. The development before me does not include any changes to levels on land outside the appeal site.

Conditions

20. I have considered the conditions attached to the original permission against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.

21. A condition to define the plans with which the scheme should accord is attached in the interests of certainty and for the reasons set out above.
22. It is stated that development has commenced and I have considered the appeal on this basis. Therefore, a condition specifying the time limit for commencement is not necessary. The time limits for other conditions have also been adjusted to require the submission of details within 2 months from the date of this permission.
23. Details of hard landscaping, site levels and materials are required in order to preserve the character and appearance of the area. For highway safety reasons the provision of parking and turning areas are also secured by condition. The removal of the host building's parking area is also required in order to preserve the openness of the Green Belt. It is necessary to submit details of a reduction in carbon emissions in the interests of sustainable construction.
24. A bat roost has been identified at this site, and a European Protected Species Mitigation Licence is required to enable the proposed works to be lawfully undertaken. The mitigation detailed within the submitted Bat Survey and the particular lighting provided are also required to ensure suitable enhancement and protection will be provided in the interests of biodiversity. Given the high level of protection afforded to this species it is appropriate that such details should be submitted as soon as possible and therefore a time limit of 1 month from the date of this permission is specified.
25. Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. The Town and Country Planning (General Permitted Development) (England) Order 2015 does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A-E in the Green Belt. Therefore, the small scale development that falls in these categories, including outbuildings, extensions to dwellings and windows in the roof, do not conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence. The Council has not provided sufficient justification for imposing such conditions in the first place and therefore as they do not meet the tests I have not reimposed them.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

- 1) This decision refers to drawings numbered LIN3/P/1.30 Rev E, LIN3/P/1.41 Rev B, LIN3/P/1.42 Rev A, LIN3/P/1.43 Rev A, LIN3/P/1.50 Rev A, LIN3/P/1.51 Rev B, LIN/P/0/10A and LIN/P/0.40. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.
- 2) Within 2 months from the date of this permission, full details of hard landscape works shall be submitted to and approved in writing by the District Planning Authority and these works shall be carried out as approved. These details shall include:
 - proposed finished levels or contours
 - means of enclosure
 - hard surfacing materials

The hard landscape works shall be carried out prior to the occupation of the development.
- 3) Within 2 months from the date of this permission details of the levels of accesses and finished floor levels of the building hereby approved shall be submitted to and approved in writing by the District Planning Authority. The development shall be carried out in accordance with these approved details.
- 4) Within 2 months from the date of this permission, details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be submitted to and approved in writing by the District Planning Authority. The development shall be carried out in accordance with these approved details.
- 5) Prior to the first occupation of the dwelling hereby permitted provision shall be made for the parking and turning of vehicles on site, as shown on the approved drawings and the parking and turning space shall be permanently retained thereafter for its designated purpose.
- 6) Within 2 months from the date of this permission details demonstrating how the development would satisfy the 10% reduction of carbon emissions through renewable resources shall be submitted to and approved in writing by the District Planning Authority. The renewable energy provision shall thereafter be implemented and retained in accordance with the approved details.
- 7) Prior to the first occupation of the dwelling hereby approved the existing vehicle parking area at the premises shall be removed and all materials be removed from site.
- 8) Within 1 month from the date of this permission a copy of European Protected Species Mitigation Licence issued by Natural England shall be submitted to the Local Planning Authority, in accordance with the provisions of the Arbtech Report (2018).
- 9) The mitigation referred to on page 3 of the Arbtech report entitled Bat survey – Emergence and Activity Surveys shall be implemented within 1 month from the date of this permission.

- 10) The lighting on the developed site will be limited to the building only and no lighting will be installed within the garden areas, thereby maintaining the existing dark areas within the developed site for bats.

Low impact lighting strategies will be adopted from the guidance outlined in the Bat Conservation Trust "Bats and Lighting" publications:
http://www.bats.org.uk/pages/bats_and_lighting.html

The lighting on the site will:

- Use narrow spectrum light sources to lower the range of species affected by lighting
- Use light sources that emit minimal ultra-violet light
- Avoid white and blue wavelengths of the light spectrum to reduce insect attraction and where white light sources are required in order to manage the blue short-wave length content they should be of a warm / neutral colour temperature <4,200 kelvin.
- Not use bare bulbs and any light pointing upwards. The spread of light will be kept in line with or below the horizontal.
- Light spill will be reduced via the use of low level lighting used in conjunction with hoods, cowls, louvers and shields. Lights will also be directional to ensure that light is directed to the intended areas only.
- External lighting will be positioned below the eaves, be on PIR sensors that are sensitive to large objects only (so that they are not triggered by passing bats) and will be set to the shortest time duration to reduce the amount of time the lights are on.
- Wall lights and security lights will be 'dimmable' and set to the lowest light intensity settings.
- make use of the most up to date technology available.