
Appeal Decisions

Site visit made on 25 January 2022

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal A Ref: APP/J1915/W/21/3272506

Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD

- 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 Bishops Stortford Lawn Tennis Club against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2355/FUL, dated 23 November 2020, was refused by notice dated 23 February 2021.
 - The development proposed is Construction of two padel courts with canopy over & with associated floodlights & external works.
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Appeal B Ref: APP/J1915/W/21/3275195

Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD

- 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 Bishops Stortford Lawn Tennis Club against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0638/FUL, dated 11 March 2021, was refused by notice dated 13 May 2021.
 - The development proposed is Construction of two padel courts with associated floodlights & external works.
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Decisions

1. Appeal A is allowed, and planning permission is granted for the construction of two Padel courts with canopy over and with associated floodlights and external works, at Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD, in accordance with application Ref: 3/20/2355/FUL, dated 23 November 2020, and subject to the conditions in the attached schedule.
2. Appeal B is allowed, and planning permission is granted for the construction of two Padel courts with associated floodlights and external works, at Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD, in accordance with application Ref: 3/21/0638/FUL, dated 11 March 2021, and subject to the conditions in the attached schedule.

Main Issues

3. The main issues common to both appeals are:
 - i) whether the proposals would constitute inappropriate development in the Green Belt;

- ii) the effect on the character and appearance of the surrounding area; and
 - iii) whether the proposals make appropriate provision for car parking, and if not, the effect of any under provision.
4. In addition, in relation to Appeal A, a further main issue is 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 required to justify the proposal.

Reasons

Inappropriate Development

5. The fundamental aim of Green Belt policy in the National Planning Policy Framework (the Framework) is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
6. Paragraph 143 of 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 construction of new buildings should be regarded as inappropriate development in the Green Belt. However, an identified exception set out within the Framework relates to the provision of appropriate facilities (in the connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Both proposals relate to the provision of new facilities for outdoor sport. Specifically, the proposals would make provision for Padel courts to facilitate and encourage participation in a growing sport. In both instances, the courts would be located in the same position on the site. This would be close to the entrance of the site and adjacent to existing tennis courts with their associated means of enclosures and floodlighting.
8. The principal difference between the two appeals relates to the proposed enclosure of the courts. Appeal A would introduce a tall structure with a barrelled roof thereby enabling use of the courts in all weathers. Appeal B does not propose such a structure.
9. The appeal site is a tennis centre and due to this use, there are a number of enclosures and lighting columns as well as courts themselves. This provides the site with an active use which impacts upon the openness of the Green Belt. In addition, there is a large building to the west of the specific location for the courts proposed. Built form is also apparent beyond the site and also opposite and it is in this context that the site for the proposed courts is experienced.
10. Despite this, Appeal A would introduce a degree of built form that would materially alter the openness of the site. It would be located on an area which currently has no built form, and which enables views to the existing courts. It also helps to provide the site with a degree of spaciousness when viewed from the site entrance and the public realm beyond. The introduction of a structure, albeit one with open sides, would, by its very nature, demonstrably alter the openness of the site. It would impact upon existing views both within and beyond the site and reduce the spaciousness that the site currently helps to

afford. Consequently, both visually and spatially, the proposal in Appeal A would reduce the openness of the Green Belt. Despite this effect, due to the surrounding context, I find that the impact on openness would only cause limited harm to the Green Belt.

11. Appeal B would introduce the same number of courts but without the associated structure. The built form would therefore only consist of the courts and associated enclosures and lighting columns. In light of the context in which the area would be experienced, I am satisfied that views into the site would not be materially altered, and the existing spaciousness would be preserved. Consequently, from both a visual and spatial perspective, this proposal would not harm the openness of the Green Belt.
12. I therefore conclude that having regard to Appeal A, the proposal would represent inappropriate development within the Green Belt. On this basis it would fail to comply with the Green Belt protection aims of the Framework as well as Policy GB1 of the East Herts District Plan (2018) (DP).
13. In contrast, in my judgement, due to the context of the appeal site, I am satisfied that Appeal B would preserve the openness of the Green Belt. I therefore conclude that it would not represent inappropriate development within the Green Belt, and that accordingly, it would comply with the Green Belt protection aims of the Framework as well as the same Policy identified above.

Character and Appearance

14. As identified above, the appeal site is host to numerous structures and courts that are associated within the Tennis Centre use. In addition, the surrounding environment contains a substantial presence of built form. As a consequence, the location of the proposed Padel Courts would be experienced within this well-established built context.
15. The location of the proposed courts would be close to the entrance of the site. However, due to the topography of the broader site, they would be located at a lower level than much of the existing built form. Accordingly, the courts would not dominate the site or be imposing when viewed from the site entrance. Instead, in both instances, I am satisfied that they would appear as a complementary addition to the well-established tennis centre which would not compromise the appearance of the broader site.
16. As a consequence, I conclude that for both appeals, the proposals would not harm the character and appearance of the surrounding area. They would therefore comply with Policies DES2, DES3 and DES4 of the DP. Taken together, these seek amongst other things, development of a high standard of design which conserves the character of the district's landscape.

Car Parking Provision

17. The Council point to an under provision of car parking on the site for the existing number of courts. Accordingly, in their view, an additional two courts would worsen the current situation. They also state that the appellant has not provided justification for what is perceived to be an under supply.
18. The under provision of car parking spaces is acknowledged. However, despite the Council's concerns relating to this matter, no evidence has been provided

to substantiate their concerns. For example, it has not been demonstrated that the existing parking provision is giving rise to indiscriminate car parking that is causing highway safety concerns. Nor has it been implied that the additional courts would worsen such a situation, or even generate one.

19. The concerns of the Council are understood. However, without substantive evidence, I have no reason to consider that an under supply of car parking spaces on site would give rise to highway safety concerns.
20. Consequently, based on the evidence before me, I conclude that the amount of parking spaces provided on the site would not have any detrimental effect on highway safety. The proposal would therefore comply with Policy TRA3 of the DP which establishes the parameters for sustainable transport.

Other Considerations

21. Due to my findings set out above, it is not necessary to consider this matter in relation to Appeal B. Accordingly, the following assessment relates solely to Appeal A.
22. Based on the evidence before me, the proposal stems from the national desire to integrate, build, accelerate and scale Padel as a sport within Great Britain. The Lawn Tennis Association seeks to provide 400 Padel courts by 2023 and accordingly, they have provided support to the proposal. The appellant also points to the housing growth that is forthcoming in the area and the need to provide additional sport and recreational facilities. The proposal would play a role in providing such facilities and the evidence suggests that it would also create opportunities for collaboration with schools to promote participation. In addition, the appellant suggests that the proposal garners support from the Council's Open Space, Sport and Recreation Supplementary Planning Document, as well as the Neighbourhood Plan.
23. The Framework is clear in how it promotes healthy and safe communities. Paragraph 98 confirms that access to a network of opportunities for sport and physical activity is important for the health and well-being of communities, and the benefits of physical activity for mental health are incredibly well-documented. As a consequence, I find that the opportunities of the proposal for promoting physical and mental well-being are a fundamental benefit of the proposal. Accordingly, this matter attracts very substantial weight in favour of the development.
24. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt. It also confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. As identified above, the proposal would represent inappropriate development and would cause some limited harm to the openness of the Green Belt. Due to the limited harm to openness, despite giving substantial weight to this matter, I find that this should be on the lower end of the spectrum of substantial weight. In contrast, due to the benefits that the proposal would facilitate, I find that the contribution towards a healthy community should attract very substantial weight, to such an extent that would clearly outweigh the harm that would be caused to the Green Belt. Consequently, on the basis of the other

considerations before me, I conclude that the very special circumstances necessary to justify the proposal do exist.

Conditions

26. In light of my findings for both appeals, conditions are necessary to control and manage the implementation of either proposal. Due to the nature and similarity of the proposals, I am satisfied that the conditions can be duplicated but two schedules are set out below because two decisions are being made.
27. Conditions 1 and 2 are necessary in the interests of clarity and precision. Condition 3 is necessary to the archaeological sensitivities of the site, and condition 4 is necessary to ensure proposed lighting is sensitive to its surroundings. This condition has been amalgamated with other suggested conditions by the Council so as to provide a clearer decision.
28. Condition 5 is necessary to promote sustainable modes of transport, and condition 6 is necessary to ensure that the developments are sympathetic to their surrounding context. Condition 7 is necessary to ensure a suitable landscaping scheme is proposed and conditions 8 – 10 are necessary to protect the amenities of neighbouring land users. Finally, condition 11 is necessary to ensure suitable tree protection.
29. Where conditions require information to be provided prior to the commencement of development, the appellant has confirmed their acceptance in writing.
30. The Council suggested additional conditions in relation to the provision of electric vehicle charging, and turning space on site. However, on the basis of the evidence before me, I find that these conditions fail to meet the tests established within the Framework. Accordingly, they have not been imposed.

Conclusion

31. For the reasons identified above, both appeals should be allowed.

Martin Chandler

INSPECTOR

APPEAL A - SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with the following drawing numbers: 08B.20.LP Rev A; 08B.20.10; 08B.20.11; 08B.20.12.
- 3) No development or groundworks shall take place until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to commencement of the development hereby approved, details of external artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:
 - a) Lighting contours to demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'.
 - b) measures to minimise use of lighting and prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires.
 - c) a plan detailing the aiming angle and light spill of the proposed lighting for each Padel court.
 - d) Confirmation that the intensity of illumination shall be controlled at a level that is within the limit recommended by the Institution of Lighting Professionals in the publication 'Technical Report No 5: Brightness of Illuminated Advertisements' and 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'.

The approved details shall be implemented prior to use of the development and thereafter be permanently retained.

- 5) Prior to the first use of the development hereby permitted, a scheme for the parking of 8 cycles shall be submitted detailing the position of the cycle parking and the dimensions of the cycle storage and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 6) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans, or in materials which have been approved in writing by the Local Planning Authority.
- 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or

contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

- 8) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 9) The use of the Padel courts hereby approved shall be restricted to the hours 08:00 to 22:00.
- 10) Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway, in particular(but without prejudice to the foregoing) efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during construction of the development of cleaning the wheels of all lorries leaving the site.
- 11) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

APPEAL B – SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with the following drawing numbers: 08B.20.LP Rev A; 08B.20.10A; 08B.20.11A; and 08B.20.12A.
- 3) No development or groundworks shall take place until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to commencement of the development hereby approved, details of external artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:
 - a) Lighting contours to demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'.
 - b) measures to minimise use of lighting and prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires.
 - c) a plan detailing the aiming angle and light spill of the proposed lighting for each Padel court.
 - d) Confirmation that the intensity of illumination shall be controlled at a level that is within the limit recommended by the Institution of Lighting Professionals in the publication 'Technical Report No 5: Brightness of Illuminated Advertisements' and 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'.

The approved details shall be implemented prior to use of the development and thereafter be permanently retained.

- 5) Prior to the first use of the development hereby permitted, a scheme for the parking of 8 cycles shall be submitted detailing the position of the cycle parking and the dimensions of the cycle storage and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 6) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans, or in materials which have been approved in writing by the Local Planning Authority.
- 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or

contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

- 8) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 9) The use of the Padel courts hereby approved shall be restricted to the hours 08:00 to 22:00.
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