



Appeal Decision

Site visit made on 7 June 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/M3645/W/21/3283354

The Cupressus, East Park Lane, Newchapel RH7 6HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Kelly against the decision of Tandridge District Council.
 - The application Ref TA/2021/705, dated 16 April 2021, was refused by notice dated 10 September 2021.
 - The development proposed is the removal of tennis court, pavilion, fencing, floodlights and sheds and erection of up to 2 detached bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline, with only details of access to be assessed now. In other respects, I have treated the accompanying plans as illustrative.
3. An amended plan was submitted at appeal¹. However, since this affects the fundamental aspects of the proposed development, I have not accepted it. An appeal should not be used to evolve a scheme. Even if I were to accept that plan, I could not legitimately limit the scheme via condition in that manner². I have therefore assessed the scheme on the basis it was determined by the Council.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and if the development is inappropriate development, the effect of the proposed development on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area; and
 - 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.

¹ 'Drawing 02', which appears to reduce the scheme to a single dwelling.

² As set out in Planning Practice Guidance Reference ID: 21a-012-20140306.

Reasons

5. The appeal site comprises a parcel of land occupied by a disused tennis court, made up of an area of hardstanding and surrounded by fencing and floodlights, together with an associated pavilion building and sheds. The site is located near to a cluster of existing residential and commercial buildings to its south, including The Cupressus. A dwelling is currently under construction to the immediate west of the site (I am told related to permission Ref 2017/1154). Land to the north and east of the site is generally in agricultural use, as is that beyond the immediate setting of the neighbouring properties.
6. The site is visible from some neighbouring properties and the highway along East Park Lane due to its proximity to the site entrance. On either side of the entrance is mature landscaping which conceals much of the site from view from further afield. This landscaping, together with the dense tree coverage along the highway, contributes to a verdant, rural character along this part of East Park Lane.
7. The proposed development would result in the removal of the disused tennis court and associated structures, and would introduce up to two new dwellings on the site, together with associated car parking. Amenity areas are proposed to serve the dwellings on the position of an existing area of open space.
8. Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (2014) (LP) in summary, and amongst other things, support the limited infilling or partial or complete redevelopment of previously developed sites where the proposal would not have a greater impact on the openness of the Green Belt. Paragraph 147 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances'. In a similar manner to the LP policies referenced above, one exception to that position is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a 'greater impact on the openness of the Green Belt...'.³
9. Given the nature of the site, specifically the permanence of existing structures, I acknowledge that the site may be characterised as previously developed land in line with the definition in the Framework. I also note that there is no dispute on this point between the main parties. I accept that the scheme would remove and consolidate the existing tennis court, pavilion and outbuildings (which the appellant has referenced as some 800sqm of footprint and 120 cubic metres floorspace). Although scale is reserved, I accept that up to two dwellings could be created here which would have a far lesser footprint. I also saw how intervening features in the landscape, the topography and paucity of nearby vantage points mean there is fairly limited visibility of the site from the surrounding area.
10. However, openness, a fundamental characteristic of the Green Belt, in my view has both physical and visual dimensions. Even physically, or numerically, the floorspace created by any scheme of up to two dwellings is likely to significantly exceed 120 cubic metres. There would also, in all likelihood, be domestic paraphernalia, hard surfacing or landscaping and boundary features

³ Noting that there is no evidence or mechanism before me to secure the development proposed as contributing to 'meeting an identified affordable housing need', the second bullet to Framework paragraph 149. g).

which would add to the effect on openness beyond a simplistic reliance on amount of ground covered; at present the site retains an essentially open, albeit artificial, character. Similarly, in my view, it would inevitably be the case that up to two dwellings here would be significantly more visually prominent than the low-lying form of existing features on the site. There are views of the site from neighbouring properties and East Park Lane on account of its proximity to the proposed site access. The scheme would also effectively draw development closer to the site access than it is presently, resulting in greater prominence from public vantage points.

11. For the foregoing reasons, as the proposed development would fail to preserve openness, it would be inappropriate development in the Green Belt (rather than an exception permissible under Framework paragraph 149). However, in the light of the mitigating factors explained above, adverse effects to openness would fairly be described as moderate. The proposed development would be contrary to the relevant provisions of LP Policies DP10 and DP13, which in summary seek to support the limited infilling or redevelopment of previously developed sites where the proposal would not have a greater impact on the openness of the Green Belt.

Character and Appearance

12. As reasoned above, the site is visible from the site entrance on East Park Lane and from neighbouring properties. Despite the tennis court and associated buildings being partially visible from the lane, these are set within the backdrop of mature landscaping behind, and themselves are overgrown. The existing structures are not attractive features but have blended into the landscape somewhat. In that respect, they could be said to have a neutral impact upon the character and appearance of the site and surrounding area. The existing dwellings near the site are clearly rural in appearance and character and do not appear out of place here.
13. The proposed development, comprising the provision of up to two dwellings on the site of the existing tennis court, would erode the contribution the site makes to the open and rural nature of the surrounding area. Although the design of the dwellings could respect local vernacular and suitable landscaping could be incorporated, the presence of development in this location would nevertheless have a negative impact on the largely open site, intensifying its use from rural to almost suburban in appearance. Consequently, the development would have a harmful effect on the site and on the open rural character of East Park Lane.
14. Based on the evidence before me and my observations on site, the proposed development would fail to maintain the open rural character of the surrounding area. It would be contrary to the relevant provisions of Policy CSP18 of the Tandridge District Core Strategy and LP Policy DP7. These policies, in summary, seek to encourage high quality design in development that integrates effectively with its surroundings.

Other Considerations

15. The appellant contends that the visual enhancements to the Green Belt and design considerations to soften the impact of the development, through the removal of the existing structures, and their replacement, together with appropriate landscaping and use of a traditional vernacular. However, the

clearance of former structures, if desired, and general enhancement of the site could happen without the redevelopment of it. In any case, as identified above, these features are far from prominent.

16. I accept that the replacement dwellings could be single storey in nature, of similar height to the existing fencing and far lower than the floodlights. However, the existing fencing is of chain-link design meaning it is lightweight and allows views through it, unlike two dwellings. The same applies to the floodlights, which although utilitarian, have minimal impact on the openness of the site and Green Belt. I therefore afford this minimal weight.
17. I acknowledge the comments in respect of the appellant not being 'tied' to any particular detailed plans, that there may be alternative ways of developing the site and that consideration should be given to only one dwelling being constructed. However, as set out initially, I must consider the appeal in the terms it has been made, i.e. 'up to two dwellings'. I therefore give this matter minimal weight and furthermore note that the absence of details in this respect makes a detailed assessment challenging.
18. Tandridge District Council cannot presently demonstrate a five year land supply of deliverable housing sites. This means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11.d) of the Framework. However, bullet (i) of paragraph 11.d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. That is a matter I address subsequently.

Green Belt Balance and Conclusion

19. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
20. The identified harm to the Green Belt would not be outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission do not exist. By extension, Green Belt policy provides a clear reason for refusal within the terms of Framework paragraph 11.d.i, and consequently no other material considerations in favour of the scheme justify allowing the appeal. I therefore conclude that the appeal should be dismissed.

A Price

INSPECTOR