



Appeal Decision

Site visit made on 30 January 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2023

Appeal Ref: APP/N5090/W/22/3304570

Belmont Mill Hill Preparatory School, The Ridgeway, Mill Hill, Barnet, London NW7 4ED

- 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 Belmont Mill Hill School against the decision of London Borough of Barnet.
 - The application Ref 22/1403/FUL, dated 16 March 2022, was refused by notice dated 13 May 2022.
 - The development proposed is construction of a new artificial grass hockey pitch with associated fencing, floodlighting, service/access road/footpath and drainage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - 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, including whether it would preserve or enhance the character or appearance of the Mill Hill Conservation Area (CA);
 - The effect of the proposal on biodiversity;
 - The effect of the proposal on the school's playing fields provision;
 - Whether or not the proposal would ensure the safety of future users; and
 - Whether any 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

3. The appeal site relates to Belmont Mill Hill Preparatory School. The school is part of the Mill Hill Foundation which is a collective of four schools.

Whether or not inappropriate development

4. Policy DM15 of the Barnet's Local Plan: Development Management Policies (2012) (DMP) states that development proposals in the Green Belt are required to comply with the Framework, and except in very special circumstances, the council will refuse any development in the Green Belt or MOL which is not compatible with their purposes and objectives and does not maintain their openness. Policies CS1 and CS7 of the Barnet's Local Plan: Core Strategy (2012) (CS) also seek to protect the Green Belt. Policy G2 of The London Plan (2021) (LP) states that the Green Belt should be protected from inappropriate development, and development proposals that would harm the Green Belt should be refused except where very special circumstances exist.
5. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given lists of exceptions. This includes b) the provision of appropriate facilities (in 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.
6. Whilst the proposal would provide facilities for outdoor sport, paragraph 149 relates solely to the construction of new buildings and in my view the pitch is not a building, therefore regard should also be given to paragraph 150 of the Framework. This sets out certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes b) engineering operations.
7. In considering paragraphs 149b) and 150b) of the Framework, the proposal would need to preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
8. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Planning Practice Guidance sets out factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt¹. Openness is capable of having both spatial and visual aspects.
9. The proposed hockey pitch would be situated towards the north east corner of the site within the existing open playing fields. The playing fields are used by the school for sporting activities (such as football, rugby, cricket and athletics). The pitch would be located in an area of the school grounds that is primarily characterised by playing pitches and trees which results in an open feel and verdant character.
10. The proposed development would not preserve the openness of the Green Belt due to the following reasons. The buildings associated with the school are predominantly located towards The Ridgeway. The existing all-weather facilities are located towards the rear of the school campus buildings. In contrast, the northern end of the school grounds is considerably less developed, although there are some small buildings close to where the hockey pitch is proposed

¹ Paragraph: 001 Reference ID: 64-001-20190722

(including pavilion buildings and a small parking area). Therefore, whilst the pitch has been located and orientated to minimise the impact on the school's existing playing fields, the pitch would not be closely related to the main school buildings or the existing all-weather facilities.

11. On my site visit, I observed that the grass includes markings, and the area contains numerous amounts of sporting apparatus and equipment. The level of these elements is unlikely to be constant. My site visit observations and the verified view photographs demonstrate this in that the amount of sporting grass markings and apparatus fluctuates.
12. The existing site constitutes recreational grounds and is not developed land, whereas the proposed development would introduce a permanent form of development and built form. The size of the pitch would be substantial and greater than the land occupied by the school buildings. It would also include a considerable extent of 3m high wire mesh fencing (which would result in an enclosure), numerous flood lighting columns and a service road/ path.
13. The proposed development would have limited visual effect. In general, the proposal would be well screened by the existing trees. Nonetheless, even though the trees would provide some screening, the height of the floodlighting columns would increase the development's prominence. It is likely that there would be long distance (as the distance between the proposed development and nearest public footpaths is substantial), glimpsed views of the proposal from public footpaths and light overspill (due to the floodlights). These views would be more noticeable during winter months when the trees are not in leaf, and when the floodlights are likely to be used more frequently due to limited daylight hours. When the trees are not in leaf, the proposed development would be more prominent than that shown in the verified views.
14. The appellant has suggested that a planning condition could be attached to control the external finish (for example the paint colour) of the floodlights. Furthermore, I have considered the submitted floodlighting and spillage layout and that planning conditions could be attached to control the hours of operation. The conditions and the colour, as well as the mesh nature, of the fencing would help to limit the proposal's impact. Nonetheless, the proposed development would still cause harm to the openness of the Green Belt.
15. Consequently, the development would cause spatial and visual harm to the openness of the Green Belt, albeit to a limited degree due to the siting, scale and design of the proposed development. For these reasons, the facilities would not preserve the openness of the Green Belt and would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.
16. To my mind, the proposed development would not wholly conflict with any of the purposes which the Green Belt seeks to serve. This is because of the site's location that falls within the school grounds and forms part of the school's existing playing field, rather than the countryside.
17. Accordingly, based on the evidence presented, the proposal would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt having regard to Policies CS NPPF, CS1 and CS7 of the CS, Policy DM15 of the DMP, Policy G2 of the LP and chapter 13 of the Framework.

18. The reason for refusal relating to this main issue refers to Policy DM01 of the DMP. It is not clear how this policy is relevant to this main issue as the policy seeks to protect Barnet's character and amenity, rather than being concerned with the Green Belt. Based on the evidence submitted, I am satisfied that in this regard the proposal does not conflict with Policy DM01.

Character and appearance

19. The school campus buildings lie within the CA. This part of the CA is characterised by the school buildings (which vary in architectural style, scale and design), modest cottages, The Three Hammers, sheepwash pond, green spaces (such as the Mill Field), Belmont Children's Farm as well as mature trees and hedgerows. Whilst not a key feature of the CA, it also includes the school's all-weather sports pitch and court.
20. There is a reasonable gap between the CA and the proposed location of the hockey pitch. Nonetheless, the appeal site positively contributes to the setting of the CA due to its open and verdant character.
21. The proposed hockey pitch would be of considerable size, located at some distance to the main school buildings, and would introduce a new built form into an area of open land. The size of the pitch would be greater than the land occupied by the school buildings.
22. The appeal site sits lower than the main school buildings due to the topography of the area. The pitch is located in an area where outdoor sport takes place (as evidenced by the grass markings, apparatus and equipment) and that forms a key characteristic of this part of the school grounds. The proposed pitch would not be an unusual feature of a site associated with a school (as evidenced by the existing all-weather facilities).
23. The pitch would not be widely conspicuous due to the dense tree screening and distance to public vantage points within the CA. There would be glimpsed views from public footpaths and light overspill (due to the floodlights) which would be more noticeable during winter months when the trees are not in leaf and when the floodlights are likely to be used more frequently due to limited daylight hours. However, the proposed development would not be a prominent addition to the setting of the CA as the distance between the proposed development and nearest public footpaths/ public vantage points is substantial.
24. Although the proposal would introduce built development in an area of open land, it would also be seen in the context of the school grounds (that includes existing all weather pitches) and would not be wholly out of keeping with the outdoor sport character of the existing playing fields (that includes paraphernalia and apparatus). Furthermore, a significant amount of the open, playing fields would be maintained. The use of green wire mesh fencing would help to ensure that views towards and outwards of the CA are maintained.
25. Consequently, the open and verdant character of this part of the CA's setting would be maintained. The proposal would not be seen as a visual eye sore against woodland and would not adversely affect the site's contribution to the setting of the CA. Therefore, having regard to the fencing, floodlighting as well as the scale, siting and design of the proposed development, the proposal would preserve the character and appearance of the CA and would not be a harmful addition to the surrounding area.

26. The wider site includes Grade II listed buildings. I am satisfied that the proposed development would not diminish or compromise the setting of the listed buildings given the distance to those buildings, intervening built development and existing characteristics of the playing fields. Consequently, I am satisfied that the scheme would not harm the setting of the nearby listed buildings and would preserve the special interest of those heritage assets.
27. Consequently, in this regard, the scheme would comply with Policies CS NPPF and CS5 of the CS, Policies DM01 and DM06 of the DMP and Policies D3 and HC1 of the LP. These seek, amongst other matters, to ensure development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
28. The proposed development would also comply with the Mill Hill Conservation Area Character Appraisal Statement (2008) which seeks to preserve and enhance the character and appearance of the CA. In addition, it would comply with chapters 12 and 16 of the Framework which promotes good design and seeks to ensure developments are sympathetic to local character and conserve and enhance the historic environment.

Biodiversity

29. The majority of the site consists of grassland. The key ecological feature constitutes the semi-natural broadleaved woodland in north-east and south-west corners of the site, which would be removed to accommodate the scheme.
30. Insufficient information was submitted with the planning application in respect of the impact of the proposed development on biodiversity, in particular the lack of further surveys for Great Crested Newts and bats. The appellant provided an Interim Ecological Appraisal (IEA) with their appeal submission. The Council highlighted that it is in draft form and a summary section was not provided to be able to fully deduce the acceptability of the proposed development on protected species and habitats.
31. As part of their final submission, the appellant has provided comments from their ecologist which introduces new evidence. New evidence will only be exceptionally accepted where it is clear that it would not have been possible for the party to have provided the evidence when they sent their full statement of case.
32. The appellant state that due to the deadline of the appeal, an interim report had to be submitted mid-season, prior to the completion of all bat activity surveys on site and did not include a complete summary of the impact of the development on protected species. It appears that surveys continued after the appeal was submitted and therefore it would not have been possible for the appellant to provide the evidence when they submitted the appeal. Therefore, in this case, I have considered the new evidence in making my decision as it is pertinent to my determination of the appeal.
33. Mitigation and enhancement measures are set out in the IEA. The ecologist's comments also set out mitigation measures. Given the potential impacts of floodlighting on bats, a planning condition has been suggested relating to a sensitive lighting scheme, designed by lighting engineers with input and review from a suitably qualified ecologist. This is because if suitable design measures

are not put in place, the presence of floodlighting has the potential to light up the entire woodland edge along the lengths of the artificial pitch. A significant increase in light-spill onto the woodland would result in these features becoming less accessible to bats, as most bat species will avoid well-lit areas where the risk of predation is perceived to be higher.

34. However, the ecologist's comments concludes that it is always advised that the mitigation hierarchy be adopted, meaning proposals should seek to retain features of ecological value where possible. Furthermore, the IEA sets out that proposals should seek to retain features of ecological value where possible and it is recommended that the orientation of the development footprint be amended, so that the proposed hockey pitch is situated on amenity grassland only. This would avoid the need to remove woodland habitats and potential effects on the adjacent pond, thereby minimising potential adverse effects on habitats and species.
35. Having regard to paragraph 180 of the Framework, the proposed development should ideally be designed and constructed in a way which avoids effects altogether; if this is not possible then mitigation measures should only be employed where it is not possible to avoid effects altogether.
36. The evidence before me does not adequately address this matter or robustly demonstrate why the orientation of the pitch has not been designed to potential adverse effects on habitats and species, in line with that suggested by the appellant's ecologist. The appellant has not substantiated that the orientation of the pitch could not be amended to avoid the need to remove woodland habitats and potential effects on the adjacent pond. Given my findings on this matter, and that the Council raised the orientation of the pitch as a concern, I did not pursue the Council's views on the new evidence.
37. For these reasons, based on the information submitted, the proposed development would cause harm to biodiversity through a failure to follow the mitigation hierarchy. Consequently, it would conflict with Policies DM01 and DM16 of the DMP and Policy G6 of the LP. These state, amongst other matters, when considering development proposals the council will seek the retention and enhancement, or the creation of biodiversity. In addition, development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain.

Playing field provision

38. Paragraph 99 of the Framework states that playing fields should not be built on but sets out circumstances where this would be acceptable. Sports England requested a plan to show the entire playing field to illustrate the proposed summer and winter playing pitch layout, and confirmation whether the pitches and Artificial Cricket Wicket would be relocated to elsewhere on the site.
39. The appellant has provided layout drawings showing existing and proposed summer and winter uses with their appeal submission. The Council have had an opportunity to comment on this. Having regard to the Wheatcroft Principles², I am satisfied that the additional information would not prejudice interested parties. The Council confirms that this additional information addresses the reason for refusal. I am satisfied the proposed development would not

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

compromise the playing field provision currently provided. The provision currently located where the new hockey pitch would be located, can be accommodated in other areas of the existing sports fields.

40. For these reasons and based on the evidence submitted, there would be no net loss in playing fields and the proposal would have an acceptable effect on the school's playing fields provision. Consequently, the proposal would comply with Policy DM15 of the DMP and Policies S3, S5, G2 and G4 of the LP. These seek, amongst other matters, to ensure that there is sufficient supply of good quality sports and recreation facilities. It would also comply with chapter 8 of the Framework which promotes healthy and safe communities.

Safety

41. Sports England also raised concerns in relation to the pitch's proximity to woodland and the pond. They sought further information regarding this and a management/ maintenance plan of the pitch since it could experience hazards caused by falling leaves.
42. The appellant has provided a Maintenance and Management Plan with the appeal submission. The Council have had an opportunity to comment on this report. Having regard to the Wheatcroft Principles, I am satisfied that the additional information would not prejudice interested parties. The Council confirms that this additional information addresses the reason for refusal. Subject to an appropriate planning condition, I am satisfied that the Maintenance and Management Plan demonstrates that the pitch could be operated safely for its users.
43. For these reasons, the potential negative impacts of the proposed development's proximity to the surrounding woodland would be effectively mitigated to ensure the safety of future users of the site. Consequently, the proposal would comply with Policies S1, S3 and S5 of the LP. These seek, amongst other matters, to ensure that there is sufficient supply of good quality sports and recreation facilities. It would also comply with chapter 8 of the Framework which promotes healthy and safe communities.

Other considerations

44. The proposal would provide educational benefits. In this regard, my attention has been drawn to paragraph 95 of the Framework and that the proposal would enhance the school's educational offer in a competitive market. In addition, the proposal would provide all-weather facilities (which is important due to London clay). The appellant asserts that the proposal would improve the health and wellbeing of students and allow the school to host more competitions.
45. The proposal would also benefit the local community as it would be open to local groups and clubs outside of school hours. I understand that the school has already been in discussion with potential users. Furthermore, the appellant asserts that the facility could help to reduce traffic further afield as it would remove the need for local residents to drive to similar facilities further away.
46. Whilst I do not dispute the benefits of the scheme, they are supported by limited evidence. For example, it is not clear how many more competitions the pitch could allow the school to host or where the nearest facilities are or to determine whether the proposal would notably reduce traffic. There is no clear evidence which demonstrates the expected demand from local groups and

clubs and whether there is a shortfall of such facilities in the local area. Similarly, whilst the proposal would provide all-weather facilities, I do not consider that the proposal would significantly improve the health and wellbeing of students given that the site already forms part of the playing fields. Based on the evidence submitted, I give the benefits of the proposal limited weight.

Whether very special circumstances exist

47. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. The proposal would not preserve the openness of the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and 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.
48. The benefits of the proposal are given limited weight. When drawing this together, the other considerations advanced in support of the appeal whether taken individually or cumulatively, do not, clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the scheme would conflict with policies CS NPPF, CS1 and CS7 of the CS, Policy DM15 of the DMP, Policy G2 of the LP and chapter 13 of the Framework which seek to protect the Green Belt and would amount to inappropriate development in the Green Belt.

Other Matters

49. The appellant sets out that a more proactive approach from the Council would have allowed all of the concerns raised to be adequately addressed before a final decision was made. The Council disputes this claim. In any event, such concerns would be a matter to take up with the Council and does not amount to a positive consideration in support of the appeal.

Planning balance and conclusion

50. To conclude, I have found that the proposed development would preserve the character and appearance of the CA and would not be a harmful addition to the surrounding area. In addition, the proposal would have an acceptable effect on the school's playing fields provision and the potential negative impacts of the proposed development would be effectively mitigated to ensure the safety of future users of the site. However, the proposed development would amount to inappropriate development in the Green Belt and would cause harm to biodiversity through a failure to follow the mitigation hierarchy, and I afford the harm substantial weight.
51. The scheme would provide educational benefits and would benefit the local community. I give these benefits limited weight. The benefits of the development would not outweigh the deficiencies that would arise as a result of the conflict with the development plan as a whole and there are no other considerations, including the Framework, that outweigh this conflict.
52. For the reasons given above, the appeal does not succeed.

L Wilson

INSPECTOR