



Appeal Decision

Site visit made on 4 April 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/M3645/W/22/3295900

Wilderness Lake, Lake View, Dormans Park RH19 2LR

- 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 Isfield and District Angling Club against the decision of Tandridge District Council.
 - The application Ref TA/2021/922, dated 13 May 2021, was refused by notice dated 10 November 2021.
 - The development proposed is use of two existing areas of hardstanding as car parks for Isfield and District Angling Club.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal relates to two hardstanding areas. The first is an area at the western most point of the appeal site located underneath the existing viaduct, referred to as car park A, and used to park approximately 8 vehicles. The second hardstanding is located between Wilderness Lake and the smaller pond to the east, referred to as car park B, and contains approximately 4 car parking spaces. Both sites are access via a small single lane accessway.
3. In regard to the hardstandings themselves, these works appear to have been previously undertaken by Network Rail (NR) in connection with their role as a statutory undertaker for railway works. The hardstandings need to be available for NR in connection with any essential maintenance works to the viaduct. However, I have limited information to support the contention that the works undertaken by NR would be considered lawful under Schedule 2 Part 8 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The Council dispute whether these works are lawful. It would be open to the appellant to apply to the Council for a lawful development certificate in order to gain a formal determination in respect to these areas, regardless of the outcome of the appeal.
4. As such, as the use of the land is dependent on the operational development in forming the hardstandings, I need to assess both the operational development in respect to the construction of the hardstanding areas, alongside their use as a car park associated with the angling club. Therefore, the main issues in this appeal are:
 - Whether 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 area of ancient woodland;
- The effect of the proposal on the character and appearance of the surrounding landscape; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. 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 Framework further establishes at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. Paragraph 150 of the Framework also highlights that some changes of use are not inappropriate in the Green Belt, which include changes of use for outdoor sport or recreation. I deal with these in turn below.
6. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 (TLP) is consistent with the Framework, resisting inappropriate development in the Green Belt. Policy DP13 of the TLP relates to buildings in the Green Belt stating development will only be permitted where very special circumstances exist and identifying new buildings as inappropriate subject to exceptions. Criterion B of TLP Policy DP13 is consistent with the approach of paragraph 149 b) of the Framework, as both highlight that one exception is the provision of appropriate facilities for outdoor sport and recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
7. The primary use of the site is an angling club, thus it is common ground that the proposal would support an outdoor recreational use, in accordance with the first limb of paragraph 149 b). With respect to the second limb of paragraph 149 b), facilities must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
8. The openness of the Green Belt has a spatial aspect as well as a visual aspect. The appeal site is accessed via the south side of Wilderwick Road along an accessway leading to the existing main car parking area. The fishing lakes are located further west along an additional access route which terminates under the viaduct. The operational development required for the hardstanding to provide car parks A and B would introduce a noticeable quantum of development on to a site which other than the viaduct, is generally open and green in nature. Therefore, the introduction of built form, as proposed, would have an adverse impact on the openness of the Green Belt in spatial terms.
9. Furthermore, the use of the hardstandings as car parks associated with the fishing lakes would facilitate the parking of vehicles adding to the loss of openness on an intermittent basis, when the area of car parking is in use during the fishing season. Whilst it is acknowledged that the parking would have a transient nature, it would nevertheless represent a harm in the openness of the Green Belt in spatial terms.

10. In regard to the visual impact on openness, the principal views of the proposals would be across private land and in that regard the car parks would be located within discrete sections of the angling club's area. Indeed, the area where car park A is located is already dominated by the viaduct, a large brick-built structure which is highly visible in the surrounding area. Furthermore, given that car park A is located underneath, it would likely only be visible in glimpsed views from public vantage points along an adjoining public bridleway to the south of the site. Whilst car park B occupies a more central and prominent position, its location amongst the existing woodland would also only be visible in limited public views. As such, it would have limited visual impact on the openness of the Green Belt.
11. I now turn to paragraph 150 of the Framework which sets out certain other forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The Appellant reference paragraph 150 e) as the most relevant, as it relates to material changes in the use of land such as changes of use for outdoor sport or recreation. Whilst the change of use to a car parking area associated with the angling club would be deemed ancillary to outdoor recreation, the use of these areas introduces vehicles and equipment, which for the reasons set out above, result in a loss of openness in spatial and visual terms.
12. Whilst I find there would be limited impact on both the visual and spatial dimensions of the openness of the Green Belt, this would result in harm, nonetheless. Furthermore, the proposal would not safeguard the countryside from encroachment and as such would conflict with the purposes of the Green Belt set out in paragraph 138 c) of the Framework. Consequently, the proposal would be inappropriate development in the Green Belt and as such would not constitute an exception to inappropriate development in the Green Belt as set out in paragraphs 149 and 150 of the Framework. In addition, it would conflict with Policies DP10 and DP13 of the TLP.

Impact on area of ancient woodland

13. The appeal site lies within the designated Ancient Woodland, and therefore forms part of an area designated as an irreplaceable habitat. Paragraph 180 of the Framework makes it clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
14. Natural England's 'Standing advice' identifies a number of direct effects of development which can cause the loss or deterioration of ancient woodlands, notably by damaging or destroying all or part of them (including their soils, ground flora or fungi), damaging roots and understorey (all the vegetation under the taller trees), etc. There are also indirect effects, such as increasing disturbance to wildlife, increasing damage to habitat (for example trampling of plants and erosion of soil by people accessing the woodland or tree protection areas).
15. Whilst I acknowledge there no formal requirement under the GPDO regulations to return the area back to its previous condition or to provide mitigation measures, as stated above, I have not been provided with formal evidence that this has been undertaken as a lawful development. In any event, there is

reasonable likelihood that vegetation clearance as part of the development has occurred along with engineering operations associated with the development which could also have caused soil compaction.

16. I note that Natural England have raised no objections in respect to the scheme highlighting that the proposal would not have a significant adverse impact on the statutory protected nature conservation site or landscape. However, I cannot be certain that the vegetation clearance and construction of the development have not contributed to the degradation of the Ancient Woodland, and in doing so threatened the ecological diversity and resilience of this priority habitat. Furthermore, it has not been demonstrated that the increased recreational disturbance resulting from the development, would not have negative effects on the Ancient Woodland.
17. In the absence of further substantive evidence to the, I cannot therefore be satisfied that the appeal development has caused no loss or deterioration of irreplaceable habitats. No wholly exceptional reasons which would outweigh the harm caused to the ancient woodland have been presented. Accordingly, the appeal development conflicts with the requirements of paragraph 180 of the Framework and Policy CSP18 of the Tandridge District Core Strategy (TCS) adopted October 2008 and TLP Policies DP7 and DP19 which amongst other things seek to retain important features and trees; promote nature conservation and management; and safeguard the environment.

Character and appearance

18. The appeal is made up of private land for the use as recreational fishing for the Isfield and District Angling Club. The area is well screened from public views and consists of rural and wooded appearance, although the viaduct provides a significant built development presence within the immediate vicinity.
19. The woodland areas adjacent to the majority of the boundaries of the appeal site means that long and medium distance views of the appeal proposals from outside the site are largely unaffected by the development within it. The car parks have discrete locations within the site screened from most public vantage points making them unobtrusive in the landscape. However, both car parks can be seen in glimpsed views only from the adjoining public bridleway to the south of the appeal site.
20. Currently, the existing accessway that links the main car park to car park A and B, provides for the parking of vehicles on an ad hoc basis. The appellant has highlighted that the accessway is used by members including those who are less able and cannot walk a long distance with their fishing equipment, to access the lakes. This has created "lay-by" features and provides a longer ribbon of development along the accessway during periods of use. The use of the hardstandings would group parking in two designated areas, thus limiting spillage parking along the accessway.
21. The provision of the transient parking facilities would maintain the function of the hardstanding for NR for maintenance purposes and would accommodate growth and inclusivity for the existing recreational use of the angling club. There are no proposals for any structures or any physical changes to the existing site, as such these areas of the site would therefore be subject to little change by the proposal and would retain its rural character. To secure this, a suitably worded condition could be imposed to limit numbers of vehicles, which

can park in car parks A and B only, preventing incursion along the existing accessway thus limiting adverse effects on the character and appearance of the area.

22. Overall, the proposal would not harm the character and appearance of the area. It would therefore not conflict with TCS Policies CSP18 and CSP21 and TLP Policy DP7 which amongst other things, seek development that integrates with its surroundings, respects the setting and local context, protects the landscape and countryside and conserves landscape character. It would also accord with the Framework which requires development to recognise the intrinsic character and beauty of the countryside and to protect and enhance valued landscapes.

Other considerations

23. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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.
24. The site is used for outdoor sport and recreation in the form of fishing. The appellant highlights that the parking areas would be utilised by anglers who are less able and cannot walk a long distance with their fishing equipment. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 (the Act). The Act sets out the relevant protected characteristics which includes disability.
25. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. The effect of not granting planning permission may result in some members not being able to access the recreational facilities and having to find alternative facilities elsewhere. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, the proposal would meet the specific needs of less able members of the club.
26. Nevertheless, I have been presented with limited information in respect to the numbers of less able users that would benefit from the provision of the car parking facilities, and the need for access and manoeuvring equipment associated in fishing activities. As such, I am not satisfied that the scale of the proposal is the minimum necessary to achieve the benefit and solely to meet the needs of disabled users of the facility. As such I give modest weight to the need for the proposal to provide inclusive and accessible use.

Other Matters

27. Reference has also been made to alleged breaches of Natural England licences control, but this is not a matter that I can assess in the context of a planning appeal.

Green Belt balance and conclusion

28. I have found that the provision and use of two areas of hardstanding as car parks for Isfield and District Angling Club would result in encroachment into

the countryside and, that harms the openness and conflicts with the purposes of the Green Belt. It is, therefore, inappropriate development. In addition, it would harm the ancient woodland. Whilst I have identified that the proposal would not harm the character and appearance of the area, this matter would be neutral in the balance. Having had due regard to the PSED and all other matters raised, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the proposed development is contrary to TLP Policies DP7, DP10, DP13 and DP19, TCS Policy CSP18 and the Framework that seek to protect the Green Belt from inappropriate development.

29. On the basis of the above considerations, I conclude that the proposal conflicts with the Framework, and the development plan as a whole, and that the appeal should be dismissed.

Robert Naylor

INSPECTOR