



Appeal Decision

Site visit made on 11 May 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal Ref: APP/L3625/W/22/3308357

Old Pheantry, Merrywood Grove, Lower Kingswood KT20 7HF

- 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 Land and City Families Trust against the decision of Reigate and Banstead Borough Council.
 - The application Ref 21/00429/CU, dated 19 February 2021, was refused by notice dated 7 July 2022.
 - The development proposed is change of use of part of the building to a school.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of part of the building to a school at Old Pheantry, Merrywood Grove, Lower Kingswood KT20 7HF in accordance with the terms of the application, Ref 21/00429/CU, dated 19 February 2021, subject to conditions set out in the attached schedule.

Preliminary Matters

2. From my site visit and on the basis of the evidence before me, the use of part of the building as a school has commenced. Whilst not included in the description of development, the proposal includes the proposed provision of a car parking area providing nine car parking spaces and one minibus parking space. This part of the proposal has not been constructed. The appeal proposal is therefore partly retrospective and I have assessed it on this basis.
3. At my site visit I also noted that children's play equipment including a wooden "tipi", and wooden benches have been installed within the appeal site. The Council has suggested that these could be structures which do not constitute development. Furthermore, as they are not shown on the submitted drawings, I have not taken them into account in my determination of the appeal.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2021) (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Whether the school use is in a suitable location having regard to accessibility by sustainable modes of transport and highway safety; and

- If the proposal is inappropriate development, 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 necessary to justify it.

Reasons

Inappropriate development

5. The appeal site comprises part of a large detached former country house known as the Old Pheasantry. The majority of the property, which is not the subject of the appeal, is in use as a Rural Education Centre. This is a longstanding use, which provides accommodation for groups bringing disadvantaged children for educational or recreational breaks.
6. The appeal relates to a smaller part of the building, with its own distinct access, and includes an area of the Old Pheasantry's extensive grounds to the side and rear. This area which includes planting and woodland provides space for car parking and an outdoor play area for pupils. The site is situated within the Green Belt and an Area of Great Landscape Value.
7. The proposal has changed the use of the appeal site to an independent Special Education Needs (SEN) School for primary children, aged 6-11 years old with complex educational and social needs. The school's maximum capacity is 18 pupils, with 15 full-time staff members and 7 part-time staff members.
8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Subject to the exceptions set out in paragraphs 149 and 150 of the Framework, the construction of new buildings and other development should be regarded as inappropriate in the Green Belt.
9. One of the exceptions identified within paragraph 150 of the Framework is "*the re-use of buildings provided that the buildings are of permanent and substantial construction*", providing that this preserves the Green Belt's openness and does not conflict with the purposes of including land within it. Therefore, the proposed use would not be inappropriate development if it preserves openness and there would be no conflict with the purposes of Green Belt designation.
10. The use of the part of the building as a school does not result in an increase in built form on the site, as the school is accommodated within the existing building. There have been no changes to the external elevations of the building. I am also satisfied that the existing building on the site is of permanent and substantial construction.
11. However, the proposal also involves the creation of a car parking area providing nine car parking spaces and one minibus parking space. This would not meet any of the exceptions in paragraphs 149 and 150 of the Framework. Accordingly, the proposal as a whole would constitute inappropriate development in the Green Belt. It would also conflict with Policy CS13 of the Core Strategy (2014) (CS) and Policy NHE5 of the Reigate and Banstead Development Management Plan (2019) (DMP) which outline that planning permission will not be granted for inappropriate development in the Green Belt.

Openness

12. The proposed parking plan shows the creation of 9 parking spaces and formalising of the unmade access and turning areas within the site as well as the installation of new cycle parking shed.
13. The car park would be of limited size, and would be sited within an area of trees relatively close to the existing building. Whilst one group and eleven individual trees would be lost to create space for the car park, an additional sixteen trees are proposed to replace the lost trees.
14. The Planning Practice Guidance (PPG) confirms that openness is capable of having both spatial and visual aspects. The parking area would be located near the front of the site. However, it would also be reasonably well screened by existing landscaping, some of which has been recently planted. Furthermore, the parking area would be constructed with a geo-grid ground stabilisation system. This can allow grass to grow through it, and would have a less urbanising effect than a tarmac surface. Overall, whilst glimpsed views of the car park would be possible from the highway to the west of the site it would not appear as a prominent feature. For these reasons, it would cause limited harm to the visual openness of the Green Belt.
15. The previous use of this part of the building was as ancillary residential accommodation for a Site Manager. This single ancillary dwelling, would have been likely to have a regular requirement for one or two car parking spaces. Whilst they would be parked on the site during school hours only, the proposed parking of nine cars and a minibus in the car park during this time would therefore involve an increase in the number of vehicles at the appeal site. These would consequently decrease the spatial openness of the Green Belt to some extent.
16. Given the limited size of the parking area and its position near to existing buildings and landscaping, the effect would be limited. Whilst eleven trees are proposed to be lost to create space for the car park works, sixteen additional trees would be planted as replacements. Over time this would provide further screening to the car park area.
17. Overall, the creation of the car park would harm the openness of the Green Belt. Although I consider that the harm to openness would be limited, there would be conflict with Policy CS3 of the CS and Policy NHE5 of the DMP.

Location and effect on highways

18. According to the Reigate and Banstead Accessibility Map the appeal site has low accessibility, as it is located away from built up areas in excess of realistic maximum walking distances from rail and bus services. The narrow access road to the site is privately owned and maintained, and provides vehicular access to a number of residential properties.
19. The appellant indicates that 2 staff members currently walk to work and one cycles, these represent a minority of staff members. On this basis, I acknowledge that, without mitigation measures, there is a significant reliance on and need for pupils, employees and visitors to travel by car. There is no dispute between the Council and appellant that, given the location of the site in relation to public transport facilities, most trips would be likely to be by private

vehicle. As a consequence, the Council state that the site is in an unsustainable location.

20. As most trips would be likely to be by private vehicle there would be a conflict with criterion 1a within Policy CS17 of the CS, which directs development to accessible locations in the borough. However, even if public transport were available, given the specialist needs of pupils, it would be unlikely to be a suitable option for their transport. Instead, 15 of the pupils travel to the school in a minibus, whilst 1 travels via taxi due to their special needs. The minibus also undertakes a second trip to collect 7 members of staff, thereby reducing the number of trips to the site. In turn, this reduces the demand for car parking spaces provided on site.
21. The appellant indicates that the majority of the Old Pheasantry continues to be in use by the Rural Education Centre which is not part of the appeal site. This use attracts its own traffic and vehicular movements. From the evidence before me it is unclear whether parking on the grass verge outside the appeal site, is generated by the proposal, or the neighbouring education centre use. However, it is important to note that at least some of the vehicle movements and highway impacts referred to by interested parties will be associated with the education centre rather than the appeal proposal.
22. I note the significant number of objections from interested parties in relation to the increase in traffic and congestion, the consequent hazard to highway safety and issues with vehicles being parked on surrounding roads and damaging grass verges and private property. It is not clear from the evidence whether these issues are as a result of the use of the appeal site as a school, or are related to the longstanding neighbouring education centre use, or are a combination of the two.
23. Whilst the school use has increased the amount of activity at the site to a degree, it is small in scale, having a maximum capacity of 18 children. The resultant trips to and from the site, taking into account the reduction in movements due to the two minibus trips, are low and, in my view, do not result in an unacceptable increase in activity. I also note that the Highway Authority raised no objection with regard to highway safety and capacity.
24. Furthermore, the Framework is clear that sustainable transport should be promoted but it does recognise at paragraph 105 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
25. Paragraph 113 of the Framework promotes the use of Travel Plans. The appellant has submitted a Travel Plan which sets out in detail the proposed transport arrangements, such as car sharing, to reduce the number of vehicle movements to the site by students and staff. I consider that this could be controlled by condition.
26. The Travel Plan also includes details of the minibus which transports pupils and staff to the school. However, there is dispute between the main parties with regards to the suitability of the off-site locations which have been proposed for the collection and drop-off of staff and pupils using the minibus. I also note that the representation from the National Trust confirms that there is not a current agreement in place for their car park to be used as a collection/drop off point. In the absence of certainty of an agreed off-site pick up location the use

of a legal agreement to secure this would not be appropriate. Consequently, it is possible that the school may have to operate without the minibus service, and I have assessed the proposal on this basis.

27. However, given the total numbers of staff and pupils, I do not consider that additional vehicle movements associated with the school would have a severe impact on the highway network. Given the provision of the on-site car parking area, combined with the controls put in place by the Travel Plan, the numbers of staff seeking to drive to school would not be significant. Even if some staff seek to park their vehicles off-site given the limited amount of traffic using the roads closest to the appeal site, I do not consider that this would result in a harmful impact on highway safety.
28. Overall, whilst the site is not in the optimum location for access by sustainable modes of transport, the proposal would not significantly undermine the aim of Policy CS17 of the CS in so far as it seeks to facilitate sustainable transport choices. For the reasons outlined above, I conclude that the proposed development would not harm highway safety. Accordingly, I find no conflict with Policies DES1, DES9 and TAP1 of the Reigate and Banstead Development Management Plan (2019) (DMP). Amongst other aims, these require development to create a safe, accessible environment, prevent exacerbation of traffic congestion and provide for the needs of pedestrians and cyclists. I also find no conflict with the principles of the National Planning Policy Framework that seek the creation of places that are safe and secure and minimise the scope of conflict between pedestrians, cyclists and vehicles.

Whether very special circumstances exist

29. I have found that the appeal proposal represents inappropriate development in the Green Belt, which is harmful by definition. The Framework states that inappropriate development should not be approved except in very special circumstances. It states that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
30. The proposal would cause a limited harm to openness. In accordance with paragraph 148 of the Framework, any harm to the Green Belt must be given substantial weight, weighing against the appeal proposal.
31. The proposed use of the site would meet many of the economic and social aspects of sustainable development. Indeed, paragraph 95 of the Framework notes that it is important that there is a sufficient choice of school places to meet the needs of existing and new communities.
32. Furthermore, the proposal provides a SEN school for children with complex educational and social needs. Both parties are in agreement that the United Kingdom has a deficit of SEN schools. I also note that currently 95% of the pupils are funded by and live within Surrey County Council. In addition, the London Borough of Merton, a nearby London borough, who currently place a vulnerable child at the school with complex specialist needs provided a letter of support for the proposal.
33. The Council suggest that limited information has been provided demonstrate why the appeal site is the only location that could serve this purpose in this

part of the borough. They state that there has been no analysis of alternative sites, no formal backing from Surrey County Council or assessment of alternative providers in this part of the borough or whether services could be expanded there.

34. However, the Council has not provided any evidence to demonstrate that there are more suitable available alternative sites within the local area. The appellant indicates that it is very difficult to find alternative sites which can provide the quiet environment, the sufficient indoor classroom space and outdoor amenity space needed for the children.
35. Furthermore, the appellant suggests that the appeal site is owned by a charity, and that other sites within the area which are available at market rates would not necessarily be financially viable to the school. However, the financial viability of the school is not a planning matter to which I can give any weight in the overall planning balance.
36. Whilst this could change in the future, it has also been indicated that 95% of the pupils are funded by and live within Surrey County Council area. To consider relocating the School to another location may remove the facility from the catchment area.
37. In that context, I find the harm to the Green Belt by reason of inappropriateness, and any other harm identified as arising from the appeal proposal, would be clearly out-weighted by the other considerations identified above.
38. Accordingly, the very special circumstances necessary to justify the development in the Green Belt have been demonstrated and therefore a conflict with Policy CS3 of the CS and Policy NHE5 of the DMP would not occur. Further, given the existence of very special circumstances, it follows that the application of the Framework's Green Belt policies does not provide a clear reason for refusing planning permission.

Other Matters

39. The concerns expressed regarding the Council's conduct during the processing of the application fall outside of the remit of this decision.
40. Interested parties have raised concerns about the potential loss of privacy and disturbance for occupiers of neighbouring properties. Given the large separation distance from the appeal site to the nearest neighbouring properties I do not find harm to the living conditions of neighbouring occupiers in relation to these matters.
41. The appeal site is not within a conservation area and contains no listed buildings. With the exception of a small car parking area, there are no external alterations proposed. Consequently, I do not find that the proposal would result in overdevelopment of the appeal site, and given the absence of heritage assets there would be no harm in this regard.
42. Concerns in relation to construction traffic and noise have also been raised. Given the works involved in constructing the small parking area, the level of disruption is likely to be limited and it would not be reasonable to withhold consent on this basis alone.

- 43. Concerns have been raised in relation to the impacts of the appeal proposal on trees and planting within the site. In order to protect trees, and to encourage the provision of further soft landscaping, I have imposed conditions requiring details of landscaping and the implementation of tree protection measures.
- 44. The concerns with regards to property values relate to private interests which I have not given any weight to.
- 45. A number of other matters have been raised by interested parties and I have taken them all into account. These include fears about crime and the impact on wildlife. However, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects. Consequently, they do not lead me to a different overall conclusion.

Conditions

- 46. I have had regard to the planning conditions that have been suggested by the Council. I have considered them 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 and for clarity and consistency.
- 47. I have imposed an approved plans condition in the interests of certainty.
- 48. I have also imposed the Council's suggested conditions requiring the provision of the car parking area and a Travel Plan in the interests of highway safety and to reduce the reliance on private vehicles.
- 49. Conditions requiring further details of landscaping, an agreed scheme of supervision for the arboricultural protection measures as well as the implementation of tree protection measures are imposed. These are in the interest of the character of the area and to protect trees on the site.
- 50. In the interests of living conditions of neighbouring residents I have imposed a condition restricting the number of pupils on site and limiting the days of use of the site to weekdays only.

Planning Balance and Conclusion

- 51. I have found that the proposal would be inappropriate development and would cause harm to openness, albeit limited. The Framework establishes that substantial weight should be given to any harm to the Green Belt.
- 52. However, I have found that the other considerations carry significant weight. Taken together, these other considerations outweigh the totality of the harm, and amount to very special circumstances. Therefore, the development's harm by reason of its inappropriateness and effect on openness is outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt.
- 53. Whilst I have found some limited conflict with Policy CS17 of the CS, the proposal complies with Policy CS3 of the CS and Policies DES1, DES9, TAP1 and NHE5 of the DMP. The proposal accords with the Green Belt provisions of the Framework and therefore the appeal should be allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall accord with the following approved plans:
Location Plan (23.02.2021); Combined Existing and Proposed Plan (17.03.2021) and Survey Plan 2103-S20 (24.05.2021)
- 2) Within 3 months of the date of this decision a Travel Plan shall be submitted to Local Planning Authority for approval. The Travel Plan shall accord with the sustainable development aims and objectives of the National Planning Policy Framework 2021 and Surrey County Council's "Travel Plans Good Practice Guide".

The approved Travel Plan shall be implemented for the site in accordance with a timescale to be agreed in writing with the Local Planning Authority and for each and every subsequent occupation of the development. Thereafter, the Travel Plan shall be maintained, reviewed and developed to the satisfaction of the Local Planning Authority.
- 3) Within 6 months of the date of this decision the parking shall have been laid out within the site in accordance with the Proposed Parking Improvement Plan included at Appendix B (plan ref A20310/01 RevP3) within the submitted School Travel Plan by Patrick Parsons (v5.0 dated March 2022) for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes.
- 4) No works to the approved car park area including groundwork, preparation and demolition shall commence until all related arboricultural matters, including arboricultural supervision, monitoring and tree protection measures are implemented in strict accordance with the approved details contained in the Arboricultural Method Statement and Tree Protection Plan compiled by David Archer Associates, dated April 2022.
- 5) No works to the approved car park area including groundworks or preparation processes shall be undertaken until an agreed scheme of supervision for the arboricultural protection measures have been submitted to and approved in writing by the local planning authority. The pre commencement meeting, supervision and monitoring shall be undertaken in accordance with these approved details. The submitted details shall include:
 1. Pre commencement meeting between the retained arboricultural consultant, local planning authority Tree Officer and individuals and personnel responsible for the implementation of the approved development
 2. Timings, frequency of the supervision and monitoring regime and an agreed reporting process to the local planning authority.
 3. The supervision monitoring and reporting process shall be undertaken by a qualified arboriculturist.
- 6) No works to the approved car park area shall commence on site until a scheme for the landscaping of the site including the retention of existing landscape features and finalised details of the proposed formalised car parking surface has been submitted to and approved in writing by the

LPA. Landscaping schemes shall include details of hard and soft landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.

- 7) The school shall only operate as a Special Education Needs (SEN) School and the maximum number of pupils attending the School at any one time shall not exceed 18 and the school shall operate between Monday to Friday and during school term time only.

END OF SCHEDULE