



Appeal Decision

Site visit made on 10 August 2023

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/C3620/W/22/3300093

Land south of Lower Road, Great Bookham, Leatherhead, Surrey KT23 4EL

- 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 Berkeley Homes (Southern) Limited against the decision of Mole Valley District Council.
 - The application Ref MO/2021/1472/PLA, dated 4 August 2021, was refused by notice dated 27 April 2022.
 - The development proposed is change of use from Use Class F1 (education) to F2 (outdoor recreation) for the provision of public open space including areas of planting, a feature pond, community orchard and outdoor recreation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from Use Class F1 (education) to F2 (outdoor recreation) for the provision of public open space including areas of planting, a feature pond, community orchard and outdoor recreation at land south of Lower Road, Great Bookham, Leatherhead, Surrey KT23 4EL in accordance with the terms of the application, Ref MO/2021/1472/PLA, dated 4 August 2021, subject to the conditions set out in the attached schedule.

Application for costs

2. There was an application for costs by Berkeley Homes (Southern) Limited against Mole Valley District Council. This application is the subject of a separate decision.

Preliminary matters

3. A unilateral undertaking (UU) dated 13 January 2022 has been submitted to the Council by the Howard Partnership Trust (the owner) and Berkeley Homes (Southern) Limited (the developer). The appeal site is currently used as school playing fields by the Howard of Effingham School. The developer has planning permission for a replacement secondary school, together with residential development, at Effingham Lodge Farm. The proposals for a new school include playing fields at the Effingham Lodge Farm site. The UU contains a planning obligation to the effect that the change of use envisaged in the appeal proposal would not take place until such time as the replacement playing fields had been provided.
4. Both the development plan and the National Planning Policy Framework (the Framework) seek to protect playing fields. However, playing fields may be put to other uses where (amongst other considerations) suitable alternative facilities will be provided. Consequently, I consider that the UU serves a clear planning purpose in that it would ensure that alternative provision was in place

prior to the loss of playing fields at the appeal site. I consider that the UU meets the relevant tests for planning obligations¹.

5. The Council has confirmed that the UU was validly executed by the relevant parties as of 19 January 2023. I see no reason to disagree and note that the terms of the UU would make it binding on any successors in title. Although the Council has highlighted an unnecessary definition of “owners” (plural) in the UU, it is not suggested that this invalidates the document. I agree, because it is clear when the document is read as a whole that there is in fact only one owner. I have therefore taken the UU into account in my decision.
6. The development plan includes the Mole Valley Local Plan (2000), the Mole Valley Local Development Framework Core Strategy (2009) (CS) and the Bookham Neighbourhood Development Plan 2015 - 2026 (BNDP). The reasons for refusal refer only to the CS and BNDP.

Main issues

7. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt; and
- whether the loss of playing fields would be justified by the provision of suitable alternative facilities.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

8. The appeal site comprises an approximately rectangular area of mown grassland used as school playing fields by the adjoining Howard of Effingham School. It is open ground, free of any built development.
9. The Council’s first reason for refusal does not identify conflict with any development plan policies. The Council’s objection is based on its interpretation of the Green Belt policies set out in the Framework. 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 lists forms of development that are not to be regarded as inappropriate. The appeal proposal is for a change of use of land which would not entail any buildings. The relevant provision is therefore found at paragraph 150(e) which is:

“material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)”

Such changes of use are not to be regarded as inappropriate, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

10. Although there would be no new buildings, some engineering works would be required to form new footpaths, a pond and a viewing deck. These features would be at or around existing ground level and would not alter the open character of the site. It matters not whether these items are analysed as part

¹ Community Infrastructure Levy Regulations 2010, regulation 122

and parcel of the change of use, or separately as engineering operations under paragraph 150(b). Either way, they would not be harmful to openness.

11. The Council argues that the site would have a “*distinctly different function*.” However, as the use of the land as public open space would be clearly within the terms of paragraph 150(e), this does not result in any policy conflict. It is also suggested that the site would take on a “*formal appearance*.” I disagree. The site is currently maintained as playing fields which, although green and open, are not a natural landscape. The most significant visual difference resulting from the appeal proposal would be additional planting, supplementing the mature trees which currently line the site boundaries. Given that openness is intrinsically linked to the presence or absence of built development, I do not think that additional planting can be regarded as harmful to openness. Finally, it is suggested that there would be additional footfall. Both the existing and proposed uses are likely to generate footfall at times, with periods of light or no use and times which are busier. However, I see no basis for concluding that footfall associated with the proposed use would have a materially greater overall impact on openness.
12. The Council has analysed the proposal under paragraph 149(b), which includes facilities for outdoor recreation. However, paragraph 149 as a whole is only concerned with the construction of new buildings. It is not relevant to this appeal.
13. The five purposes of Green Belt are set out in the Framework². The Council has not identified conflict with any specific purposes. No such conflict would arise in my view.
14. I conclude that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It would not be inappropriate development and there would be no conflict with those policies of the Framework that relate to Green Belt.

Whether the loss of playing fields would be justified by the provision of suitable alternative facilities

15. Policy CS 16 of the CS seeks to protect open space, sports and recreation facilities. The policy refers to the former Planning Policy Guidance Note 17³ and states that, where development is proposed, evidence will be required to show that suitable alternative provision can be made. Policy BKIN4 of the BNDP states that the loss of existing community facilities will not be supported unless an appropriate alternative is provided or evidence is presented that the facility is no longer required. The Framework also seeks to protect playing fields. It states that one of the circumstances in which loss of playing fields may be justified is where:

“the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location”⁴

² The Framework, paragraph 138

³ Planning Policy Guidance Note 17 (Planning for Open Space, Sports and Recreation), since replaced by the Framework

⁴ The Framework, paragraph 99

16. The appeal site adjoins the boundary between Mole Valley District and Guildford Borough Council (GBC). The existing school buildings, on the southern side of Lower Road, and the Effingham Lodge Farm site to the north, are within GBC. In March 2018 permission was granted on appeal for a replacement secondary school and up to 258 dwellings on the Effingham Lodge Farm site (outline) and 37 houses at Brown's Field, Effingham (full). Brown's Field is a detached parcel of land to the south west of the existing school buildings which is also laid out as sports pitches. Reserved matters approval has been given for the new school and part of the associated enabling residential development⁵.

17. The school currently has the following playing fields:

The appeal site (Mole Valley District)	1.39ha
Current school site (GBC)	0.95ha
Brown's Field (GBC)	1.69ha
Total	4.03ha

18. The approved proposals would result in the existing playing fields within GBC being developed for housing. The approved school layout includes 5.9ha of playing fields, which would be a significant increase in relation to the current provision.

19. Sport England objected to the planning application. The nub of its objection is that the loss of the appeal site was not considered as part of the wider redevelopment of the existing school site. Sport England therefore regards the appeal scheme as an additional loss of playing fields which requires further mitigation. Sport England also refers to concerns it raised regarding the impact of the wider redevelopment scheme on community rugby. However, it concedes that those concerns were addressed by securing community use of the proposed sports facilities. In any event, planning permission has now been granted for the proposals within GBC. The planning merits of those proposals are not before me.

20. The appeal site was not within the application site boundary for the wider redevelopment scheme. Nor does the Inspector's Report⁶ to the Secretary of State relating to those proposals indicate that the loss of playing fields at the current appeal site was considered at that time. Nevertheless, in my view it does not follow that the current proposal should be looked at in isolation. First, the appeal scheme would form part of a comprehensive set of proposals designed to deliver a replacement secondary school. Second, most (though not all) of those proposals now have detailed planning permission. The size, location and layout of the replacement playing pitches can now be fully understood. Third, the UU would ensure that the appeal scheme, if permitted, could not take place until the replacement pitches were provided.

⁵ Full details of the planning history, which includes further enabling development, are included in the evidence and are not repeated here. Reserved matters approval has not been granted in respect of residential development on the site of the existing school buildings.

⁶ APP/Y3615/W/16/3151098

21. Looked at as a whole, the wider redevelopment scheme would provide a significant net increase in the amount of playing field provision. Moreover, the pitches would be brought together in one location within the school site. This would allow better pitch layout and greater flexibility in terms of use. It would also avoid the need for school pupils to leave the school site to travel to separate pitches without on-site changing facilities.
22. I conclude that the replacement playing fields would provide a suitable alternative to the existing pitches at the appeal site. In the terms of the Framework, the replacement playing fields would represent better provision in terms of both quantity and quality and would be in a suitable location. The proposal therefore accords with Policy CS 16, BNDP Policy BKIN4 and the Framework.

Other matters

23. The site is located adjacent to the Little Bookham Conservation Area and there are some listed buildings nearby. The application was supported by a Heritage Statement which identified those heritage assets with the potential to be affected. The part of the conservation area closest to the appeal site comprises a group of listed buildings with a semi-rural setting. The appeal site is a positive feature which provides a green backdrop to the Church of All Saints and its churchyard. The trees that currently line the boundaries of the appeal site would be retained and supplemented with new planting. Other features of the proposal would have no material impact on the adjoining conservation area. Consequently, there would be no harm to the significance of the conservation area through development in its setting.
24. The Church of All Saints is a Grade II* listed building. It has a strong landscape setting, much of which is provided by the churchyard. This creates a verdant and enclosed character which contributes to the significance of the church. The open nature of the appeal site, together with the trees it contains, makes a positive contribution to the setting by reinforcing the sense of isolation and separation from Lower Road and from modern development in the wider area. The proposals would have an attractive, informal layout with curving paths, a pond and significant new planting to reinforce the existing landscape structure. In my view these features of the design would enhance the setting of the listed building.
25. Manor House School, Manor Farmhouse and Manor Farm Tithe Barn are listed buildings which have limited inter-visibility with the appeal site. The proposal would have no impact on their settings. The settings of these listed buildings would be preserved.
26. The Effingham Residents Association argues that the proposal is premature in that there is no certainty that the replacement school will be built. This concern is addressed by the UU, which would ensure that the appeal proposal could not take place until such time as the replacement playing fields had been provided. Other matters raised by interested parties have been covered above.

Conditions

27. The Council and the appellant have suggested conditions which I have considered in the light of Planning Practice Guidance. The suggested conditions

were broadly similar and I have combined some of them to cover the various points raised.

28. Condition 2 requires development to be in accordance with the plans, in the interests of clarity and certainty. Condition 3 requires submission of details of materials, in the interests of the character and appearance of the area. Conditions 4 and 5 require submission of a landscaping scheme and an arboricultural method statement. They are needed in the interests of the character and appearance of the area, protecting trees and habitats and securing biodiversity net gain. Condition 6 requires submission of measures to protect breeding birds, in the interests of protecting habitats and biodiversity. Condition 7 requires archaeological investigations to be carried out, in the interests of protecting the archaeological potential of the site. Conditions 5, 6 and 7 are pre-commencement conditions. This is necessary because they would control impacts arising during the construction phase.

Conclusion

29. For the reasons given above, I conclude that the proposal would accord with both the development plan and the Framework. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be allowed.

David Prentis

Inspector

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out and completed in accordance with the submitted plans:
 - location plan numbered S857/SLP/01; and
 - landscape plan numbered 1581/005 revision H
- 3) No above ground works shall take place until details and samples of the materials to be used in the construction of the decking and paths hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and samples.
- 4) No above ground works shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be generally in accordance with landscape plan numbered 1581/005 revision H and shall include measures to deliver biodiversity net gain, such as bird or bat boxes and log piles, the planting of native species of trees, shrubs, herbaceous plants and areas to be grassed. Landscaping shall be carried out in accordance with the approved scheme in the first planting season after commencement of the development unless agreed otherwise in writing by the Local Planning Authority and shall be maintained for a period of five years thereafter in accordance with the Landscape Maintenance and Management Plan by Charnwood (Reference CLDL 2416 (9A) 2001 R01). Such maintenance shall include the replacement of any trees and shrubs that die, become diseased or are removed with others of the same size and species.
- 5) No development shall take place until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.
- 6) No development shall take place until measures to protect breeding birds during the construction process have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved measures.
- 7) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, to be conducted in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

End of schedule of conditions