



Appeal Decision

Site visit made on 5 June 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/J1915/W/23/3331401

Jobbers Wood Sports Pavilion, Great Hadham Road, Much Hadham, Hertfordshire SG10 6FB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr A Pickup [Ashdown Developments Ltd & Bishop's Stortford High School] against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0374/FUL.
 - The development proposed is erection of new cricket school and construction of associated parking on recreational ground at Jobbers Wood.
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Decision

1. The appeal is dismissed.

Background

2. Herts and Essex Cricket Centre (HECC) is a specialist indoor cricket training facility for individuals, schools, clubs and elite academies. It is the appellant's case that the current premises sited elsewhere in the district at Tharbies Farm, is underutilised due to its countryside location. Although it is suggested that the proposal would provide a replacement facility at the appeal site, it has not been submitted as a tandem application including the redevelopment of Tharbies Farm. Nor is there a S106 agreement before me to require the existing facility to cease or be removed. The proposal before me therefore seeks to provide a new cricket training facility. It follows the refusal of a previous scheme for a similar development in December 2022¹.

Preliminary Matters and Main Issues

3. A Transport Statement (TS) and amended site plan were submitted with the appeal documentation. As the TS and plan do not fundamentally alter the proposal and the Council and interested parties have had the opportunity to comment on their contents through the appeal process, no party would be prejudiced in taking the TS and plan into account in my decision.
4. Policy GBR1 of the East Herts District Plan (DP) 2018 advises that proposals for new development within the Green Belt will be determined in line with the provisions of the National Planning Policy Framework (the Framework). In December 2023 the Government published a revised Framework. Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. No party would be prejudiced by reference to the revised Framework.

¹ Planning application reference 2/22/0899/FUL.

5. The proposal is for the erection of a single storey building to provide an indoor cricket training facility. Paragraph 154 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Both parties agree that as the proposal does not meet any of the specified exceptions, the proposal is inappropriate development. Hence, the main issues in relation to this appeal are therefore;
- i) The effect of the proposed development on the openness of the Green Belt;
 - ii) The effect of the proposed development on the character and appearance of the area, with particular regard to trees;
 - iii) Whether the appeal site is in an accessible location having regard to the development plan;
 - iv) Whether the proposal would provide biodiversity net gain; and
 - v) Whether any harm by reason of inappropriateness and any other harm, would be outweighed by other considerations, including health, education and transport benefits, so as to amount to very special circumstances necessary to justify it.

Reasons

Openness

6. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guide².
7. The erection of a large building where one does not currently exist would result in a spatial loss of openness. Sited behind the existing pavilion and adjacent bund, the proposed building would be partially visible from Great Hadham Road (B1004)³ albeit from a distance, and from the sports pitches. The visual encroachment of built development within the Green Belt would therefore be apparent.
8. The appellant suggests that in combination with a separate application to demolish the existing HECC cricket facility elsewhere within the Green Belt, there would be a net benefit to openness. However, that proposal also sought permission for the creation of 6 dwellings⁴. It seems to me that there would be no material gain to the openness of the Green Belt as the existing HECC facility would have been replaced by other built form. In any event, the Council has confirmed that that application was refused. Without a mechanism such as a S106 requiring the closure and/or removal of the existing facility, the impact of the proposed building on the openness of the Green Belt would not be offset.
9. Consequently, the proposal would result in permanent harm to the spatial and visual openness of the Green Belt and I find conflict with paragraph 142 of the Framework.

² Paragraph:001 Reference ID: 64-001-20190722.

³ As demonstrated in fig 2 of the appellant's supporting statement dated February 2023.

⁴ Planning application 3/23/0399/FUL as

Character and Appearance

10. The appeal site comprises an area predominantly of tree planting as well as a grassed area, and temporary structures including 2 container units, a tank and tractor. The existing trees form part of a wider woodland belt surrounding the existing playing fields, understood to form part of The Bishop's Stortford High School (TBSHS). As landscape features of visual and biodiversity value, they contribute positively to the verdant and rural character of the Green Belt.
11. The proposed building is required to perform a particular function, essentially that of a large indoor sports hall, which the appellant advises has to comply with Sport England and English Cricket Board (ECB) guidelines. Nevertheless, Policy DES4 of the DP is clear that all development proposals must be of a high standard of design to reflect and promote local distinctiveness.
12. With a high eaves height and shallow pitched roof, it would differ in form and bulk to the existing pavilion, appearing as a building of a much larger scale. Whilst the pavilion includes a gable feature to the front elevation, it is sited centrally so as to provide a focal point along with the projecting balcony. In contrast, the gable projection to the eastern end appears as an afterthought, with contrasting eaves height and steeper pitch of roof, such that the proposed building would not have one overall cohesive design, nor reflect the appearance of the pavilion. Whilst the use of materials to match the pavilion would offer some visual mitigation, there would be little articulation to the front elevation of the building in particular, which would be visible to the users of the appeal site and adjacent sports pitches.
13. Whilst the proposed building would not offer a particularly high standard of design as viewed from within the appeal site, only part of the building would be visible from Great Hadham Road above the existing bund. Given the separation distance provided by the existing sports pitches, the proposal would not provide a dominating intrusion within the street scene as suggested by the Council.

Trees

14. Policies DES2 and DES3 of the DP require in combination, development proposals to demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape and seek to ensure that existing landscape features of amenity and biodiversity value will be retained, protected and enhanced. Criterion iii of Policy NE3 advises that development which would result in the loss of trees will not be permitted. Criterion ii of Policy DES3 advises that where losses are unavoidable and justified by other material considerations, compensatory planting will be sought within or outside the development site.
15. To facilitate the erection of the proposed building, a cluster of circa 150 trees are proposed for removal. A Tree Survey and Arboricultural Impact Assessment (TSAIA) accompanies the proposal, which advises that the trees are largely young to semi-mature native specimens of good ecological value, a matter I will return to later in my decision.
16. I observed that the trees have an important collective value in forming part of a woodland belt that serves to frame views around the perimeter of the sports

pitches. The trees are visible from Great Hadham Road above the pavilion as well as from the existing sports pitches above the existing bund.

17. However, the TSAIA provides no consideration of the importance of the existing trees as a woodland belt and in this regard, I find that their value has been understated significantly. Moreover, it is clear that the trees are capable of surviving for a number of years without the proposed development. The proposal would not therefore conserve, enhance or strengthen existing amenity features.
18. The appellant's evidence relies on the provision of compensatory planting. However, Policy DES3ii) is clear that such provision should only be made where losses are unavoidable and justified. No evidence has been presented including within the TSAIA to demonstrate that consideration has been given to moving the building footprint to prevent the need for the loss of so many trees. It is unclear what planning constraints result in the position of the proposed building being considered as the only suitable location for the development. Furthermore, it has not been proven that a 2.5m buffer zone between the proposed building and the retained stems of group G2, would be sufficient to allow the young specimens to reach maturity without resulting in future pressure to remove or prune.
19. Mitigation would consist of 180 native trees to be planted on the existing bund to the north of the proposed building. No evidence has been presented to demonstrate that the bund is of a sufficient size to enable the proposed planting to reach full maturity. Neither is it clear what material the bund is made from or whether previous compaction may inhibit the successful growth of the proposed planting. In any case, it would take a number of years for the trees to reach sufficient maturity so as to offer screening of the proposed development. Even then, the provision of an isolated group of trees raised up on an artificial bund would appear odd and incongruous and would not adequately mitigate for the loss of a large cluster of trees, forming part of a wider tree belt.

Conclusion – Character and Appearance

20. The proposed design would not reflect the quality or distinctiveness of the existing pavilion and would result in the loss of a large number of trees without adequate justification. An adverse effect would therefore be exerted on the character and appearance of the area. The proposal would fail to comply with Policies NE3, DES2, DES3 and DES4 of the DP as set out above. Conflict is also found with paragraph 135 of the Framework which seeks to ensure that new development adds to the overall quality of the area, is visually attractive and sympathetic to local character.

Accessible Location

21. DP Policies CFLR1 and TRA1 seek to support proposals for new indoor sport and recreation facilities in sustainable locations, served by a choice of sustainable travel options. Whether or not the existing HECC facility offers a more sustainable location or not, I am required to assess the acceptability of the proposal before me.
22. The appeal site is located in the countryside, outside of any defined settlement and is not served by public transport including rail or bus services. From my

observations Great Hadham Road is a 60mph, unlit, winding rural road without a dedicated pedestrian footway. It would not therefore be particularly pleasant or safe to walk from the built-up area of Bishop's Stortford which is some distance to the east. This would particularly be the case after dark. The appeal site may offer the opportunity for cycling but due to the nature of Great Hadham Road, is likely to be limited to a small number of experienced road cyclists. The location of the appeal site would not therefore offer future users a realistic choice of transport options.

23. Nevertheless, I acknowledge that the majority of adults using the proposed cricket training facility are likely to have their own kit which would be cumbersome and difficult to carry, even if public transport was a credible alternative to the private car. Future users are therefore likely to rely on their own private vehicles to access the proposed facility.
24. Despite the countryside location, any trips from Bishop's Stortford, said to be the core customer base for the facility, would nonetheless be relatively short trips. However, the Community Use Schedule provided is unclear as to whether the named schools in Appendix 1b would use the proposed facility itself or whether the HECC coaches are outsourced to the school locations. If it is the case that the schools would travel to the proposed facility, it seems to me that some, for example Hitchin and Watford Girl's Grammar schools, would travel a considerable distance. The evidence is ambiguous as to what proportion of users would be local individuals or sports teams and how many would come from further afield, thus generating longer trips.
25. Paragraph 89 of the Framework recognises that sites to meet community needs in rural areas may have to be found adjacent to, or beyond existing settlements and in locations that are not well served by public transport. It goes on to advise that in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
26. It has been established above that the proposal would not be sensitive to its surroundings due to the adverse impact on the character and appearance of the area and the loss of openness.
27. The appellant suggests with reference to a Transport Statement (TS) that the proposal would produce a transport gain. It is noted that the TS was produced in relation to the separate proposal for the redevelopment of the existing HECC premises for housing⁵. Although the TS claims that the housing proposal would result in an 85% reduction in traffic, that would be to the Tharbies Farm site and arising from the proposed change of use. There is no evidence before me to suggest that the amount of traffic to and from the existing facility at Tharbies Farm is problematic or hazardous resulting in significant highway safety concerns.
28. It seems logical that the erection of a new building with the purpose of increasing attendance at the HECC would result in an increase in traffic generation to and from the appeal site. The TS does not however, comprehensively evaluate the traffic impact generated by the proposed development on the local road network adjacent to the appeal site.

⁵ Planning application reference 3/23/0399/FUL.

29. The amended site plan now provides cycle parking. However, no travel plan has been presented which could identify opportunities to manage or reduce travel demand and assist in a modal shift towards for example car sharing, such that the proposal does not fully exploit opportunities to make the location more sustainable.
30. Reference is made to appeal decisions made in relation to the Great Hadham Golf and Country Club⁶. The Inspector acknowledged the isolated location of the proposed development but considered that lodges were suitable in the rural area and consistent with the golf course use i.e., that there would be a functional link between the two. In the case before me, there is no evidence that the users of the proposed facility would have access to or would use the existing outdoor sports pitches. The decisions do not therefore affect my findings.
31. Drawing the above together, there would be some harm arising from the location of the proposed facility outside of a defined settlement due to the reliance of users on the private car as a means of transport. Consequently, there would be some limited conflict with Policies CFLR1 and TRA1 of the DP as detailed above. Although the Framework as a material consideration may offer some support for community development in the countryside, it is subject to criteria that I am not satisfied have currently been met.

Biodiversity Net Gain

32. Together Policies NE2 and NE3 of the DP seek to ensure that development always enhances biodiversity, as measured by applying a locally approved Biodiversity Metric, as well as avoiding harm to, or the loss of features that contribute to the local and wider ecological network.
33. As discussed above, the proposal would result in the loss of 150 young to early mature trees and associated habitat. The Preliminary Ecological Appraisal identifies that the grassland and woodland habitats on or adjacent the appeal site are suitable for foraging/commuting bats and have the potential to support nesting birds and rabbits. It advises that the appeal site has good connectivity to quality habitats in the wider area but concludes that the proposal would not result in any substantial loss of habitat. It is not known what a substantial loss would be, but the removal of 150 trees is not insignificant. Moreover, it has not been demonstrated that the loss of trees is unavoidable.
34. Hertfordshire Ecology considers that 180 replacement trees would provide a biodiversity net gain (BNG) but without explanation as to how this view is arrived at, given the absence of a biodiversity metric. Even though more trees would be planted than would be removed, there is no assessment of the existing biodiversity value offered by the semi-mature trees, relative to their replacement by prospective younger specimens that are unlikely to provide equivalent compensatory habitat for some time. Without any baseline or projected calculations and given my concerns about the likely success of replacement planting as discussed above, it is not clear whether BNG would be achieved.
35. The proposal does not avoid the loss of features that contribute to the local and wider ecological network and neither can I be certain that the replacement

⁶ Appeal decisions APP/J1915/W/18/3195491 & APP/J1915/W/18/3203036.

trees would achieve BNG. The proposal would therefore fail to comply with Policies NE2 and NE3 as set out above. It would also be contrary to paragraph 180d) of the Framework which seeks to minimise impacts on and provide net gains for biodiversity.

Other Considerations

36. The provision of a facility to allow sport to take place all year around would clearly be of benefit to the physical health and well-being of the local community, as well as providing opportunities for individual and group development in the sport of cricket⁷. In this regard the proposal would meet the purpose of the Council's Open Space, Sport and Recreation SPD (2020).
37. Educational benefits to the pupils of TBSHS through the provision of an additional facility for the specific purpose of cricket training, are also cited by the appellant. Even if the TBSHS has a history of cricket achievement, the proposal appears from the evidence to be a commercial building for use by the general public, not specifically a building for the school. Although it is suggested that a private agreement has been made, there is no confirmation that the school would utilise the proposed facility on a regular basis, in addition to its existing or proposed multi-use sports hall⁸. In fact, despite the school being named on the application, it is oddly silent on the proposal.
38. Sport England and its subsequent consultation with the ECB appear to accept that the existing HECC facility is underutilised as suggested by the appellant, due to difficulties with access, particularly via unclassified roads in the winter. It is not clear why this would be problematic or what evidence Sport England and the ECB have had to make this assessment.
39. It seems to me that there is little substantive evidence to back up the assertions regarding access. For example, a survey of existing or previous users has not been supplied. Without a written consultation response from the ECB, I cannot be satisfied what factors it considered to inform its view that the appeal site would provide a major improvement above the location of the existing facility. Given the lack of compelling evidence presented, it is not known whether the quality of the space, cost and availability may also be contributing factors to underutilisation.
40. Neither has any evidence been presented to demonstrate that the core customer base arises from Bishop's Stortford. Indeed, the appellant acknowledges that the current HECC facility at Tharbies Farm is placed fairly centrally within its catchment area⁹. Without an accompanying map, it is not clear from the Community Use Schedule that the proposed facility would be any nearer to any of the groups or schools referenced, or those that do not currently choose to visit the existing premises. Whilst the appeal site is geographically closer to Bishop's Stortford it is still isolated from the settlement requiring travel into the countryside.
41. A Sequential Site Assessment to support the appellant's assertion that there is a lack of alternative sites available outside of the Green Belt has been

⁷ With reference to Government guidance documents; Sporting Future: a new strategy for a more active nation (2015 and Get Active: a strategy for the future of sport and physical activity).

⁸ Reserved matters planning application, reference 3/0527-20(CC0816) for a new 6FE secondary school as cited within the Council's officer report.

⁹ As set out within the access section of the appellant's supporting statement dated February 2023.

provided. A number of premises are rejected on the basis they would not provide the required 20m by 40m internal space for the cricket training area. However, no consideration appears to have been given to whether the layout of the buildings could be altered to make the internal space larger. Unit 2A at Stanstead Distribution Centre appears to have also been discounted due to it being offered on a short sub-let lease until September 2023. This contradicts the supplied rental particulars which advise that longer leases may be available upon request.

42. I am not satisfied that the reasoning for discounting these alternative sites stands up to scrutiny. Neither has any evidence been provided as to whether any allocated or brownfield sites within a settlement could be redeveloped to provide a suitable location, or the facility could be conjoined with other existing sports provisions, such as the Lawn Tennis Club referenced elsewhere in the appellant's evidence.
43. Notwithstanding all of the above, the appellant's case is predicated on the basis that the proposed development at the appeal site would result in an increase in patronage including use by individuals for coaching, lane hire and birthday parties, in addition to use by local schools, cricket clubs and other cricket squads and academies.
44. However, the existing Jobbers Wood sports pitches are restricted by planning conditions for use by TBSHS and any other organisations agreed with the Council, such that general community access is prevented¹⁰. The Council's evidence does not explain why these restrictive conditions were considered necessary or relevant to the development permitted. Nevertheless, they exist and seek to prevent open use of the wider Jobbers Wood sports pitches by the public. The proposed development would introduce members of the public to the appeal site which would appear to be incompatible with the nature of the existing conditions, concerns I note are shared by Sport England. I am not satisfied that if permitted the proposed development could comply with these circumstances. Nor is it clear that the Council would support any variation to the conditions to enable general access to the proposed facility.

Conclusion – Other Considerations

45. Considered carefully, the lack of compelling evidence regarding the availability of suitable sites and premises within a settlement, the suitability of the location to increase patronage, the use by TBSHS and the absence of a suitable mechanism to ensure that the existing facility is removed, is such that I cannot be satisfied that the suggested health and educational benefits of the development as currently proposed would be realised. For these reasons they would attract no more than limited weight.

Other Matters

46. Reference is made to development permitted within the Green Belt at Bishop's Stortford Lawn Tennis Club. It is clear from the Inspector's decision for the 2 linked appeals, that the appeal site consisted of a number of enclosures and lighting columns as well as a large building. The surrounding development was also considered to contain a substantial presence of built form.

¹⁰ Conditions 1 and 2 of planning application 3/10/1044/FO as set out within the Council's officer report.

47. Whilst harm was found to the Green Belt in the case of Appeal A¹¹, it was outweighed by the substantial weight to be afforded to the benefits of the scheme to physical and mental health. No harm was found in relation to Appeal B¹². Neither of those circumstances apply to the proposal before me given the identified harm to the Green Belt, the differing context of the appeal site and the uncertainty around the deliverability of the suggested benefits.
48. I find no evidence that the Council has ignored the advice of its statutory consultees. Rather it is clear from its officer report and statement of case, that all of the matters raised from such consultations were considered and justification provided for any departure from the advice given.

Green Belt Balance and Conclusion

49. The proposal would amount to inappropriate development in the Green Belt resulting in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are outweighed by other considerations.
50. I am required to give substantial weight to Green Belt harm which is combined with the other identified harm to the character and appearance of the area, and insufficient information to demonstrate the achievement of BNG. Due to the ambiguity of evidence, only limited weight can be attached to the suggested health and educational benefits of the proposal, such that the harm is not clearly outweighed.
51. There would also be limited harm arising from the inaccessibility of the appeal site other than by the private car. However, the balance does not hinge on this issue. The limited weight ascribed to the health and educational benefits of the proposal would be insufficient to outweigh the Green Belt harm, even if no other harm had been identified.
52. The very special circumstances necessary to justify the proposal do not exist. The appeal is dismissed accordingly.

M Clowes

INSPECTOR

¹¹ Appeal reference APP/J1915/W/21/3272506.

¹² Appeal reference APP/J1915/W/21/3275195.