



Appeal Decision

Site visit made on 19 June 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/M3645/W/23/3329191

Little Horseshoe, Effingham Lane, Copthorne, Surrey RH10 3HP

- 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 Ray Smith against the decision of Tandridge District Council.
 - The application Ref is TA/2022/909.
 - The development proposed was originally described as "Retention of part of existing hardstanding. Landscaping of boundaries of hardstanding and planting of fruit orchard".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has been subject to two enforcement notices. The first¹ related to the change of use for the stationing of residential caravans and residential storage from agricultural land. That notice was complied with. The second² related to the erection of outbuildings, the installation of hardstanding and a gate, over one metre in height adjacent to the highway. The second notice was appealed, the appeal³ was dismissed, and the enforcement notice was upheld. This enforcement notice has been complied with, other than in relation to the installation of hardstanding.
3. The description of development indicates that the proposal includes the retention of hardstanding. The construction of the hardstanding has not been consented and based on the enforcement appeal is not permitted development. Therefore, my assessment is based upon the construction of the hardstanding.
4. Within the application form the appellant has indicated that the works started in January 2019 and finished in June 2019. During my site visit I observed that the hardstanding matched what is shown on the application plans. However, the landscaping works shown on the plans has not been undertaken. I will therefore refer to the appeal proposal as the proposed development throughout my decision, despite some aspects of the proposed development being in situ.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the character and appearance of the area;

¹ Enforcement notice Ref. ENF/2018/257 – Notice 15

² Enforcement notice Ref. ENF/2018/257 – Notice 16

³ Appeal Ref. APP/M3645/C/19/3234428

- the effect of the proposal on protected species; 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

Whether the proposal would be inappropriate development

6. The appeal site is within the Green Belt. Policy DP13 of the Tandridge Local Plan, Part 2: Detailed Policies, 2014-2029, July 2014 (LPP2), indicates that inappropriate development is harmful to the Green Belt. This is consistent with the approach detailed in Chapter 13 of the National Planning Policy Framework (the Framework).
7. LPP2 Policy DP13 and paragraph 155 of the Framework identify that certain forms of development 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 exceptions include engineering operations. The appeal proposal comprises an engineering operation. Therefore, whether it would be inappropriate development in the Green Belt, is dependent on its effect on the openness of the Green Belt and whether it conflicts with the purposes of including land within it.
8. In accordance with the identified court judgments⁴, the openness of the Green Belt has both spatial and visual dimensions and the effect of a proposal on its openness is a matter of planning judgement.
9. The proposal would have an effect on the openness of the Green Belt, in spatial terms, as it introduces hardstanding into an area that was previously free from development. In visual terms, the proposed development would be well screened by close boarded fencing and vegetation. Given the hardstanding would be on the ground and the site is relatively flat, the hardstanding would be imperceptible in long distance views. However, the extensive hardstanding would allow a significant number of vehicles to park and manoeuvre and would generally increase activity within the site. As such, it would also have a visual effect on the openness of the Green Belt.
10. The email dated January 2019 from the Council's Enforcement department acknowledges that the hardstanding is appropriate for the site. However, this was on the basis that the site was used for agricultural purposes.
11. The planning permission⁵ for four dwellings and the demolition of existing buildings, on land near to the appeal site is materially different to the appeal proposal. That proposal represented the redevelopment of previously developed land which did not have a greater impact on the openness of the Green Belt. As such, it does not set a precedent for the appeal proposal.
12. I note the planning permissions⁶ for appropriate outdoor recreational facilities at neighbouring Arabian Lodge and at the nearby Copthorne School. In both instances the Council concluded that the development preserved the openness of the Green Belt. As such, it was not inappropriate development in the Green

⁴ Samuel Smith Old Brewery and others vs North Yorkshire County Council [2020] UKSC3 and Turner vs Secretary of State for Communities and Local Government [2016] EWCA Civ 466

⁵ Planning permission Ref. 2019/610

⁶ Planning permission Refs. 2022/1356 and 2019/1703

Belt. Both proposals introduced a significant amount of built development into areas which were previously free from development. Based on the evidence and my observations, I do not agree with the Council's assessment that neither development affects the openness of the Green Belt. Regardless, the Council's acceptance of what I consider to be inappropriate development in the Green Belt, close to the appeal site, does not justify allowing this appeal. Therefore, it does not set a precedent for the appeal proposal.

13. The proposal would have a harmful effect on the openness of the Green Belt. It would also lead to the encroachment of development further into the countryside. Therefore, the proposal would be inappropriate development in the Green Belt, having regard to the Framework and LPP2 Policy DP13. The proposal would also be contrary to LPP2 Policies DP10 and DP17, which indicate that permission for inappropriate development in the Green Belt will normally be refused, and equestrian facilities will be permitted where they preserve the openness of the Green Belt.

Character and appearance

14. The appeal site is located on Effingham Lane. There is a loose linear pattern of development along the road, which comprises of a school, dwellings, and equestrian facilities, amongst other uses. Nearby development is often surrounded by large, landscaped areas or open fields. Moreover, there is tall, dense vegetation bordering the road. Combined these aspects create a rural and verdant character.
15. Some nearby developments include large sections of hardstanding. However, the footprint to plot ratio of the built development is generally low, as it is surrounded by larger undeveloped areas. The proposal would lead to a much higher footprint to plot ratio, as large sections of the site would be covered in hardstanding. The introduction of a comparatively large amount of hardstanding would appear incongruous to the verdant character of the area.
16. The provision of equestrian facilities, a small holding, an entrance, and hardstanding to park a horse box and other associated paraphernalia would be characteristic of the wider rural area. As such, the nature of this development is in keeping with the character of the area. Nonetheless, the scale of the proposal would make it appear out of character.
17. The hardstanding would be well screened by a close boarded fencing and the existing and proposed vegetation. As above, it is likely to be imperceptible in long distance views. However, a proposal being well screened from public views does not mean that it would not harm the character and appearance of the area. Instead, it would reduce the extent of the harm.
18. The site not being subject to any protective landscape designations is a neutral factor and does not alter my assessment of the acceptability of the appeal proposal.
19. I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would be contrary to Policies CSP18 and CSP21 of the Tandridge District Core Strategy, October 2008 (CS) and LPP2 Policy DP7. These policies indicate that the Council will require that new development is of a high standard of design that reflects the local context; the character of the

District's countryside will be protected for its own sake; and, development should integrate effectively with its surroundings.

Protected species

20. As above, the hardstanding has not been lawfully constructed; therefore, my assessment is based upon the site's previous use as a paddock and as grazing land. The appeal site is surrounded by mature trees and is in proximity to open bodies of water. As such, it may have previously provided suitable habitat for commuting and foraging wildlife, including protect species.
21. I am mindful of the precautionary principle set out within Section 17(5) of the Environment Act 2021. Given the lack of substantive evidence, and the presence of nearby habitats that may support protected species, I cannot conclude that the development did not have a harmful effect on protected species. Therefore, the proposal would be contrary to CS Policy CSP17 and LPP2 Policy DP19, which indicate that development proposals should protect biodiversity and planning permission for development affecting protected species will only be permitted where it can be demonstrated they will not be harmed.

Other considerations

22. The proposal would enable an enhanced private equestrian offering and facilitate the use of the site as a small holding, this would provide economic benefits through the diversification of a land-based rural business. The proposal could also lead to a biodiversity net gain. Paragraph 180 of the Framework is clear that planning decisions should contribute to and enhance the natural and local environment by providing net gains for biodiversity. Therefore, a biodiversity net gain is an expectation of all proposals. Given the Framework's guidance and the modest scale of the proposal, I ascribe limited weight to the benefits.
23. Paragraph 153 of the Framework states 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. I have found the proposal to be inappropriate in the Green Belt. As per paragraph 153 of the Framework, I ascribe substantial weight to this harm. In addition, the proposal would be harmful to the character and appearance of the area and potentially harmful to protected species. Given the scale of the proposal and the limited evidence on the presence of protected species, I ascribe moderate weight to this harm.
25. As I ascribe limited weight to the benefits and substantial weight to the overall harm, the very special circumstances necessary to justify the development do not exist.

Other Matters

26. The appellant has drawn my attention to the conduct of the Council during the application process, including a lack of engagement following the 2022 court case relating to the historical enforcement action. This is a matter between the parties and not determinative to the outcome of the appeal.

Conclusion

27. The proposal conflicts with the development plan when considered as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR