



Appeal Decisions

Site visit made on 18 June 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2024

Appeal A Ref: APP/C1570/W/24/3337011

Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS

- 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 Stuart Richardson of NB Investments UK Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2878/FUL.
 - The development proposed is change of use from agricultural grazing land and construction of a tennis court and erection of 3 metre high chain link fencing surround.
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Appeal B Ref: APP/C1570/W/24/3340838

Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS

- 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 Stuart Richardson of NB Investments UK Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/0068/FUL.
 - The development proposed is change of use from agricultural grazing land and construction of a tennis court.
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Decision

1. Appeal A is allowed and planning permission is granted for change of use from agricultural grazing land and construction of a tennis court and erection of 3 metre high chain link fencing surround at Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS in accordance with the terms of the application, Ref UTT/23/2878/FUL, subject to the conditions set out in Schedule 1 to this decision.
2. Appeal B is allowed and planning permission is granted for change of use from agricultural grazing land and construction of a tennis court at Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS in accordance with the terms of the application, Ref UTT/24/0068/FUL, subject to the conditions set out in Schedule 2 to this decision.

Preliminary Matters

3. I have also dealt with another appeal (APP/C1570/W/23/3333029) adjacent to this site. That appeal is the subject of a separate decision.
4. In respect of Appeal A, drawing number RMDS/ES/TC/002 refers to 2.5m high fencing. As the application form and Council's officer report clearly assess the proposal on the basis that the fence would be 3m, and the fence is not shown in the form of a scale plan, I have considered the proposal on the basis of what has been stated on the application form.

Main Issue

5. The main issue in respect of both Appeal A and Appeal B is the effect on the character and appearance of the area.

Reasons

6. Both appeals involve the siting of a tennis court to the north of the wellness hub building. Appeal A would involve the tennis court being angled and surrounded by a 3m chain link fence. It would only be for the use of residents of the dwellings to the north of the site. Appeal B also proposes a tennis court, lying adjacent and parallel to the wellness hub. No chain link fence is proposed as part of this appeal. This proposal would be for the use in association with the wellness hub, but the appellant has indicated use by occupiers of the dwellings would also be allowed. A 1.2m timber post and rail fence is proposed around the wider site boundary as part of both appeals.
7. The Council accepts a tennis court would be appropriate in a rural area, thus satisfying the initial consideration in Uttlesford Local Plan (2005) (LP) Policy S7. Both appeals would result in the development of a currently open area of land and the loss of some of it to the hardstanding of the proposed tennis court. Each would be limited in size. The additional land to be developed around the court does not appear to be disproportionate to the run-off area expected for such a court.
8. There would be a slight urbanising effect from each of the proposals from the installation of a hard court surface. This would be mitigated by the proposed use of green colouring on the surface material. There would be a slightly greater effect in the case of Appeal A by virtue of the proposed installation of a 3m high chain link fence. This would not be excessively high and the visual impact would be mitigated by the proposed green colour treatment and its mesh nature. While the surrounding development is generally in a linear fashion, the proposed court in Appeal A would be at an off-set angle and consequently so would the fence. However, this would not result in harm given the limited visibility of the proposal.
9. Appeal B would be to serve the wellness hub, the building for which is not yet complete or occupied. However, the building has walls and a roof. I have not been made aware of any reason it could not be brought into use quickly. A tennis court could reasonably be considered as complimentary to the facilities offered by a wellness hub. In the case of both appeals, a condition could restrict the use of the tennis court to the users identified.
10. The proposals would both be in proximity to the wellness hub building and the proposed car parking to serve it. It would be located only a short distance (approximately 100m in the case of Appeal A and 150m for Appeal B) from the residential properties, the occupiers of which would be able to access either court. This is not an excessive distance. The proposed use of a tennis court would be compatible with the character of its immediate surrounds, given the permission for the wellness hub and the overall proximity of the dwellings at Eastfield Farm.
11. It would appear that it would be possible for both tennis courts to be installed were I to allow both appeals. However, due to the open nature of a tennis court

and the fact Appeal A only proposes a 3m high fence, the cumulative effect of both courts would not have a materially different effect to that of one.

12. I therefore conclude that both Appeal A and Appeal B would not cause harm to the character and appearance of the area. They would be in accordance with LP Policies S7 and GEN2(a)-(b) which taken together and insofar as they relate to this appeal, require development to protect the character of the countryside and be compatible with the scale and appearance of surrounding buildings. It also would not conflict with paragraphs 135(a), 135(c) of the National Planning Policy Framework (the Framework) which require development to function well and be sympathetic to the character of the surrounding area.

Other Matters

13. The proposal would result in the loss of a small area of Grade II agricultural land. However given the small area of the site and constraints imposed by the surrounding development, this would not result in unacceptable harm.
14. There would not be material harm to the biodiversity of the area from the loss of a small area of undeveloped land which would continue to be surrounded by an expanse of open space.
15. In their officer report for Appeal A, the Council refer to conflict with LP Policy ENV3 although this policy is not cited in the reason for refusal. This seeks to protect open spaces and trees. There is no substantive evidence before me that this is a traditional or otherwise visually important open space.
16. I have been directed to a number of previous decisions from the extensive planning history of the site. However as none of those proposals were directly comparable to the proposal before me, they would not alter the conclusion I have reached above.
17. There would be undisputed wellbeing benefits from the provision of a tennis court. While there may be other tennis facilities in the area, this would not be a reason for me to dismiss this appeal. As both proposals are intended to serve people who would already be on the Eastfield Farm site, there is no need for car parking to be provided. No floodlighting is shown on the proposed plans. No important environmental features in the setting of the tennis court have been identified.

Conditions

18. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework and I have made amendments to some of them for clarity. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans.
19. Appeal A was made and assessed on the basis that the tennis courts would be to serve the occupiers of the existing residential properties at Eastfield Farm. Appeal B was on the basis of use by visitors to the wellness hub and occupiers of the dwellings. It is therefore reasonable and necessary to impose a condition to secure this although the Council did not suggest such a condition with respect to Appeal B.

20. In the officer report for each appeal, the Council referred to the need for a condition to ensure the proposal was accessible to all potential users. No such condition has been suggested. I consider it is reasonable and necessary to impose such a condition to ensure the tennis courts would be accessible for all potential users.
21. There was a representation to Appeal B with respect to safeguarding at Stansted Airport. This recommended conditions with respect to lighting, wildlife and construction management. Given the proximity of the site to the airport, I consider these conditions to be reasonable and necessary. Given the similarities between both appeals, I also consider it necessary to impose the same conditions on Appeal A.
22. While no illumination of the court is proposed in either appeal, lighting could have an adverse effect on the living conditions of adjacent occupiers. It is therefore reasonable and necessary for any lighting scheme to be agreed prior to its installation.
23. Proposed materials are identified on the application form and approved plans for both appeals. The officer report confirms that the proposed materials would be appropriate. It therefore would not be necessary for a further materials condition to be imposed. No landscaping is indicated on the plan. Given the extent of landscaping around the wider site, it is not necessary for there to be specific landscaping of the tennis courts or the wider site. There is no evidence in relation to Appeal A which shows the proposal would have an adverse effect on protected or priority species or habitats. Given the limited scale of the proposal, biodiversity enhancement measures would not be necessary. There is no indication that power or water are to be provided to either court. It therefore it would not be necessary to impose a condition with respect to levels of use of either.

Conclusion

24. For the reasons given above, Appeal A and Appeal B each comply with the development plan when read as a whole and material considerations do not lead me to a decision otherwise. As such, both Appeal A and Appeal B should be allowed.

J Downs

INSPECTOR

SCHEDULE 1

SCHEDULE OF CONDITIONS APPEAL A

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RMDS/ES/TC/001; RMDS/ES/TC/002 and RMDS/ES/TC/003.
- 3) The development hereby approved shall only be used for ancillary domestic purposes in connection with the existing converted residential properties in Eastfield Stables.
- 4) Prior to the installation of the surfacing to the tennis court hereby approved, a scheme to ensure that the tennis court would be accessible to all users shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme prior to first use. The approved measures shall be thereafter retained.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
- 6) Before, during and after the construction period (including excavation), no dust/smoke clouds nor pools/ponds of water shall occur or be created on, near or above the site and no airborne debris shall be created on or blown from the site from waste materials. Measures should be taken to prevent scavenging of any detritus by wildlife.
- 7) Prior to the installation of any external lighting features, their details, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, only the details thereby approved shall be implemented for the external lighting features.

END OF SCHEDULE 1

SCHEDULE 2

SCHEDULE OF CONDITIONS APPEAL B

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RMDS/ES/TC/1001; RMDS/ES/TC/1002 and RMDS/ES/TC/1003.
- 3) The development hereby approved shall only be used ancillary to the wellness hub and by occupiers of the existing converted residential properties in Eastfield Stables.

- 4) Prior to the installation of the surfacing to the tennis court hereby approved, a scheme to ensure that the tennis court would be accessible to all users shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme prior to first use. The approved measures shall be thereafter retained.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
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- 7) Prior to the installation of any external lighting features, their details, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, only the details thereby approved shall be implemented for the external lighting features.

END OF SCHEDULE 2