



Appeal Decisions

Site visit made on 9 October 2024

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 November 2024

Appeal A Ref: APP/M3645/C/22/3307124

Lyndale, Carlton Road, South Godstone, Surrey RH9 8LD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr A Liasides against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice was issued on 06 September 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of detached swimming pool building in the approximate position outlined in blue on the attached plan and used for residential and business purposes.
 - The requirements of the notice are: Within one month from the date on which the notice takes effect:- (i) Cease the use of the building for business purposes. Within six months from the date the notice takes effect:- (i) Remove the building in the approximate position outlined in blue on the attached plan; and (ii) Following compliance with (i) above, remove all resultant debris and unused materials from the land to an authorised place of disposal.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/M3645/W/22/3307130

Lyndale, Carlton Road, South Godstone, Surrey RH9 8LD

- 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 Mr A Liasides against the decision of Tandridge District Council.
 - The application Ref TA/2022/0432, dated 24 March 2022, was refused by notice dated 31 August 2022.
 - The development proposed is: Erection of detached swimming pool building (retrospective). Use for residential and business purposes.
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Decision in Respect of Appeal A

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Decision in Respect of Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Three appeals were before me in relation to the same site. Appeals A and B, as set out above, relate to a swimming pool that has been erected and used for both personal and business purposes. Given that the appeal against the

enforcement notice is made on ground (a) alone, the issues are essentially the same as those in relation to Appeal B which was made against the decision of the Council to grant planning permission for the building and use, retrospectively. Consequently, I have dealt with both appeals in this same decision letter.

4. The third appeal¹ relates to a certificate of lawful development for a proposed swimming pool building, purely for private use, adjacent to the site of the current pool structure. Given that the issues in that appeal are distinct from those relating to the planning merits of the existing structure, I have issued my decision in that case in a separate decision letter.

Main Issues

5. The main issues in respect of Appeal A on ground (a) and Appeal B are:
 - i) Whether the development represents inappropriate development within the Green Belt, having regard to local and national planning policy;
 - ii) If the development does amount to inappropriate development, the effect on the openness of the Green Belt;
 - iii) The effect on the character and appearance of the area;
 - iv) The effect on living conditions of residents of neighbouring properties;
 - v) If the development does amount to inappropriate development in the Green Belt, whether the harm to the Green Belt and any other harm, is clearly outweighed by other material considerations, such that very special circumstances exist to warrant a grant of permission.

Whether Inappropriate Development

6. Development within the Green Belt is strictly controlled in line with local and national planning policy. Paragraph 154 of the National Planning Policy Framework (the Framework) identifies that the construction of new buildings should be considered as inappropriate in the Green Belt unless they fall within a closed list of categories. The construction of a swimming pool building for personal and business use does not fall squarely into any of those exceptions.
7. Under paragraph 154(c), the extension of a building is not inappropriate, providing it would not result in a disproportionate addition over and above the size of the original building. Caselaw has held that domestic outbuildings can, in some circumstances, be considered as 'extensions' to a building where they amount to a 'normal domestic adjunct'. However, the pool building in question has been used for both personal and business use and would not fall into that category.
8. Even if it was purely used for domestic purposes, I have some reservations as to whether a pool building of that size could be considered a normal domestic adjunct such that it would be considered as an extension to the original dwellinghouse. It is not akin to a garage or garden building that would be ubiquitous and 'normally' found with most dwellings but is more unusual on account of its scale and proportions.

¹ APP/M3645/X/23/3314143

9. Even, then, if I were to accept the development as a domestic extension, its scale is substantial. The floorspace of around 160 square metres compares to the main dwelling with a footprint of 240 square metres. However, footprint alone is only one measure and the overall bulk and volume of the pool building is substantial. Moreover, there are numerous other domestic outbuildings present and the planning history depicts that those and various extensions have been added from the 1970s onwards.
10. Thus, the dwelling that is present on site is already considerably larger than the original dwellinghouse which is the baseline against which any additions must be measured. The combined footprint of the pool building, in addition to the other extensions and outbuildings, is substantial when compared to the dwelling as originally constructed. It would be disproportionate in my view having regard to that cumulative impact and the sheer scale, footprint and height of the pool building. Consequently, by any measure, the building does not fall within the exception listed at paragraph 154(c) of the Framework.
11. Part 2 of the Tandridge Local Plan (2014) (the Local Plan Pt 2) contains policies relating directly to development within the Green Belt. Policy DP10 largely mirrors the Framework and states that inappropriate development within the Green Belt will not be permitted except in very special circumstances. The policy itself does not specify the type of development that will be considered inappropriate within the Green Belt but the preamble defers to the Framework in that respect.
12. Policy DP12 relates to development in defined villages within the Green Belt. However, the parties now agree that the site does not sit within a defined village and that policy is not relevant to the determination of the appeal. Policy DP14 is relevant and relates to new garages and other ancillary domestic buildings in the Green Belt outside of defined villages. The policy states that ancillary domestic outbuildings will be permitted providing that four criteria are met.
13. The first is that they do not constitute a dominant feature and are not excessive in size, having regard to the size of the dwelling they are to serve. The second requires that they do not detract from the character or appearance of the locality; the third that they do not replace a garage that has been converted to residential use and the fourth that they would not be used for any purpose which is not incidental to the enjoyment of the dwellinghouse.
14. Those criteria are not replicated in the Framework in terms of assessing whether a building would be "inappropriate development" or not. In fact, the preamble to policy DP14 states that the policy will be used to assess whether very special circumstances exist in relation to such buildings as opposed to whether they amount to inappropriate development. Accordingly, whilst policy DP14 is relevant to my decision, it is not determinative in the question of whether the swimming pool building amounts to inappropriate development.
15. For the reasons given above, I find that the pool building amounts to inappropriate development within the Green Belt having regard to local and national planning policy.

Effect on Openness

16. Openness, which is one of the essential characteristics of the Green Belt, has both a spatial and visual quality. In other words, the effect of a building on openness will be dependent to an extent on how visible it is but even where a building is not visible or prominent it may have a spatial impact by taking up space that was previously free from development.
17. In this case, the pool building is set in the rear corner of the garden of Lyndale, a dwelling that is itself set to the rear of neighbouring dwellings which front onto Carlton Road. Given its location, views from the public realm are limited. Nonetheless, it is visible from neighbouring properties, particularly Summerlea, due to its height and proximity to the rear boundary.
18. In spatial terms the structure is a large building, being comparable to the size of many of the detached dwellings in the area and described as barn-like in appearance by the appellant. I accept that outbuildings are not uncommon in the area but the scale of the pool building is significant even in that context. It occupies space that was free from development within the rear garden and consequently has reduced the sense of openness within the garden and viewed from neighbouring properties. Given that the impact is contained, the effect on openness of the Green Belt overall is modest but nonetheless harmful to one of the essential characteristics of the designation.

Effect on the Character and Appearance of the Area

19. Carlton Road is private drive, serving an estate of generally substantial detached dwellings, connecting onto the A22, part-way between Blindley Heath and South Godstone. The individual design of the dwellings varies but each is set within a sizeable plot. Dwellings are segregated by mature trees and ornamental planting which gives the area a verdant and leafy character. Lyndale conforms to that pattern, being a substantial house set within a generous garden. Beyond the northern boundary lies open countryside. As noted above, the backland location is such that the rear garden is not readily visible in the public realm.
20. The pool building is a large structure, with a shallow pitched roof, blockwork at base level, above which is timber cladding on the inward facing elevations. The timber cladding is not unsympathetic to the semi-rural location and the building does have an agricultural feel in terms of its proportions and materials. The cladding could be stained to help soften the visual impact, something that could be secured by condition. Consequently, when looking from within the rear garden of the dwelling the visual impact and effect on the character and appearance of the area is broadly acceptable.
21. The same cannot be said from views within the neighbouring garden of Summerlea. A steeply pitched lean-to roof runs directly along the boundary, tying into the main building just below eaves level. The roof is clad in corrugated profiled sheeting. Given the steepness of the pitch and proximity to the boundary it is that metal sheeting that is most visible from within the neighbouring garden. The cladding is extremely unsympathetic, giving the structure an industrial appearance that is out of sync with the residential character of the neighbourhood. The building is also tucked in the corner of the garden very close to the boundary, giving the impression of a structure that has been positioned to save as much space as possible within the rest of

the garden, regardless of the effect on the character or the area or impact when viewed from neighbouring vantage points.

22. That design approach results in a harmful visual impact from the neighbouring property and also sits awkwardly against the prevailing spacious character of the estate in general. It would not be possible to mitigate that impact through additional planting on account of the lack of space between the building and the boundary.
23. Thus, whilst those impacts are, to some extent, issues relating to neighbouring amenity or private as opposed to public views, there is a cross-over and the design and siting is harmful to the established character of the area. Whilst it may be possible to secure alternative cladding that would not overcome the harm caused as a result of the siting of the building which goes against the spacious grain of the estate.
24. For those reasons I find that the building fails to comply with the design related aims of policy DP7 of the Local Plan (particularly paragraphs A, 1 & 2), and the similar aims of policy CSP18 of the Tandridge District Core Strategy (2008) (the CS). In terms of policy DP14 whilst large, the pool building is not excessive having regard to the size of the dwelling it serves and the size of the garden. However, it is a dominant feature when viewed from the neighbouring property on account of the unsympathetic siting and proximity. Moreover, whilst the design is not inherently unsuitable to a semi-rural area there is harm to the spacious character of the estate. As such, the development is not wholly in compliance with the requirements of paragraphs 1 and 2 of policy DP14 of the Local Plan.

Living Conditions

25. Consideration of the effect on neighbouring living conditions is twofold. Firstly, in respect of the physical effect of the building when viewed from Summerlea and secondly, the impact of the business use on surrounding properties arising from additional comings and goings associated with the use of the pool for business purposes.
26. On the first issue, the side elevation has a strident impact when viewed from the rear garden of Summerlea, as set out above. The unsympathetic and somewhat unneighbourly choice of materials does not assist in that regard and only serves to draw the eye. The use of different cladding may soften the impact but would not ameliorate the overbearing impact that arises from the proximity, height and scale of the building.
27. On the second issue, the baseline position is a quiet residential neighbourhood set on a private drive which leads onto bridleways and the countryside beyond. Evidence provided from neighbouring residents in response to the planning application detailed movements in and out of the property associated with the pool were taking place 7 days a week in March 2022 prior to the service of the enforcement notice. An email from the appellant to a customer, also dated March 2022 indicated that the business had ceased letting out the pool at weekends, seemingly due to the investigation by the Council, but continued to offer parent and toddler classes throughout the week.
28. The driveway to the dwelling is long and narrow, passing to the side of Greenacre, the neighbouring property. Interested parties provided information

sent by the appellant to customers showing a parking layout broken down as car park A, which is immediately to the rear of Greenacre, and car park B, which is directly to the side of Summerlea. The route from the parking area to the pool then passes along the side boundary of Summerlea.

29. The breakdown of use provided by the appellant indicates that some sessions contain up to 5 children, with one aqua fit session for 6 ladies. Notwithstanding that some may walk, that may not always be the case and that could result in numerous cars arriving at the same time, with more movements at each subsequent change over. Some sessions appear to be as short as 30 minutes, others for longer. That would lead to a frequent change over of customers and the level of activity across the day is not insubstantial.
30. Having regard to the close proximity and having read the responses to the planning application I have no doubt that the use of the building has had a notable effect on the amenity of the surrounding residents on account of additional comings and goings, car engine noise, doors opening and closing, conversations and communication with no doubt excited children and the like.
31. If I were minded to grant planning permission, the appellant has put forward a condition that would limit hours of operation to between 09.30am to 12pm and 4pm to 6pm on weekdays only, with no commercial use at weekends. The fact that such a condition has been suggested is perhaps a tacit acknowledgment that unfettered use has caused harm to adjacent living conditions. The Council suggests that it would be difficult to monitor such a condition but neighbouring residents would no doubt be aware of when people were visiting the pool so it would not be unenforceable.
32. It would be much more difficult to enforce any restriction on the number of people using the pool at any one time, or the duration of sessions and the breakdown of use provided by the appellant would no doubt evolve over time if permission was granted. However, even with such a restriction, the level of disturbance would be more than one would reasonably expect, given the quiet nature of the residential area. People spend significant amounts of time at home during normal daytime hours, whether they are retired or working from home for example and the development impairs the quiet enjoyment one should be able to expect in a residential area.
33. In view of the above, the development causes harm to the living conditions of neighbouring residents to an extent that is contrary to the aims of policy DP7 of the Local Plan and policy CSP18 of the CS. It is also contrary to paragraph 135(f) of the Framework which requires planning decisions to ensure that development creates a high standard of amenity for existing and future users.

Other Matters

34. As set out in the preliminary matters, I have also determined an appeal relating to a certificate of lawful development for a proposed swimming pool building adjacent to the current pool and found that such a structure would be lawful on the basis that it would comply with permitted development rights under Class E, part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
35. That does represent a legitimate fall-back position. However, the development proposed in that case differs from the development before me in the current

- appeals. The maximum height is notably lower, the volume is less as a result, it would be set further from the boundary of Summerlea and the building would only be permitted on the basis that it was used for purposes incidental to the dwellinghouse. In other words, no business use would be permitted.
36. For all of those reasons, the fact that an alternative building could be erected does not add any significant weight in support of the current scheme because the impact on the openness of the Green Belt would be less, as would the impact on neighbouring living conditions. Moreover, it is not clear if the appellant would actually construct a pool building purely for personal use given that the current building appears to have been marketed as a business venture since its formation.
37. In my duties as a decision maker I must have regard to the 'three aims' of the Public Sector Equality Duty (PSED), set out in s149 of the Equality Act 2010. In summary, they are to eliminate discrimination, victimisation or harassment; to advance equality of opportunity between those who share a protected characteristic and those who do not; and to foster good relations between those who share a protected characteristic and those who do not.
38. I understand that roughly 20% of classes cater for children with special educational needs or disabilities. Whilst little information is available in terms of the individuals concerned, disability is a protected characteristic and the PSED is applicable and relevant to the case. A letter of support has been submitted from a parent who testified to the benefit that a quiet environment had on the progress of their child in swimming. That child had a disability that made swimming in a public pool difficult on account of the noisy environment.
39. Thus, the pool does foster the chance for children with protected characteristics to gain similar opportunities to children who do not share those characteristics. That is undoubtedly a matter that weighs in favour of the development. I am also aware that the pool offers a place to relax for younger carers who need respite from their responsibilities. The benefits to those involved are likely to be significant and I attach weight accordingly.
40. Interested parties have highlighted another pool facility in South Godstone that appears to be available for those with similar needs such that it may be the case that the benefits could be gained elsewhere if the pool in this instance was no longer available. That tempers the weight I attach slightly but, nonetheless, it remains a significant consideration in favour.
41. Residents have referred to the effect of extra traffic on the private drive and in terms of safety at the junction with the A22. The Local Highway Authority have raised no objection in respect of the junction and I see no reason to take a different view having viewed the junction and its characteristics. Matters pertaining to the upkeep of the private drive are private issues for those concerned.

Whether Very Special Circumstances Exist

42. Inappropriate development is, by definition, harmful to the Green Belt and should not be permitted, unless very special circumstances exist. The Framework identifies that substantial weight must be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm to

the Green Belt, and any other harm, is clearly outweighed by other material considerations.

43. In addition to the harm by way of inappropriateness, the development has caused moderate harm to the openness of the Green Belt and harm to the established character of the area on account of its siting. It has also caused harm to the living conditions of neighbouring residents arising from noise and disturbance and the overbearing impact when viewed from the rear of Summerlea. Given that the Green Belt harm alone attracts substantial weight, the combined weight of all of those matters is considerable.
44. For the reasons given, I attach limited weight to the potential fall-back of a different pool building being erected under permitted development rights. The benefits that the pool brings for those who use it, and the chance it offers for those with protected characteristics to have opportunities to swim do attract significant weight in favour. However, some of those benefits could be attained by using other pools and even if the appeal site was the only available site, the same benefits could have been achieved without siting the pool so close to neighbouring properties and causing resultant harm.
45. In terms of policy DP14, the development fails to comply with criterion 1, 2 and 4 and the locally adopted method of demonstrating very special circumstances is not met. Overall, it is clear that the other material considerations in favour do not clearly outweigh the harm, quite the opposite, and the very special circumstances needed to justify the development have not been demonstrated.
46. If I were to attach a condition to prohibit any business use of the pool the material considerations relating to protected characteristics would not exist. The development would still amount to inappropriate development and cause harm to the character and appearance of the area and the living conditions of residents of Summerlea due to its scale and design. The matters in favour, specifically the fall-back position of a smaller pool building, set further from the boundary, would not clearly outweigh the harm arising to demonstrate very special circumstances.

Conclusion on Ground (a) and Appeal B

47. For the reasons given, the development is contrary to the relevant policies of the development plan and amounts to inappropriate development within the Green Belt. In the absence of very special circumstances, there are no material considerations to justify a decision other than in accordance with the development plan and it follows that I shall refuse to grant planning permission in respect of Appeal A on ground (a) and Appeal B.
48. Both appeals will be dismissed and I shall uphold the enforcement notice in respect of Appeal A.

Chris Preston

INSPECTOR