



Appeal Decision

Site visit made on 15 January 2025

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2025

Appeal Ref: APP/L2440/W/24/3339925

Land Adjacent to Washbrook Lane, Oadby, Leicester LE2 5QG

- 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 N Chima (B and N Chima Construction Ltd) against the decision of Oadby and Wigston Borough Council.
 - The application Ref is 22/00293/FUL.
 - The development proposed is the construction of football centre comprising of 5 x 4G pitches ,club room and changing facilities, fencing, floodlighting and car park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given the opportunity to make comments on this revision.
3. During the course of the planning application the number of football pitches proposed was revised from 6 down to 5. I have considered the appeal on that basis and with regard to the amended plans that were submitted.

Main Issues

4. The main issues are:
 - (i) The effect of the proposal on ecological interests and on trees
 - (ii) The effect of the proposal on flood risk
 - (iii) The effect of the proposal on the Green Wedge, the landscape and the adjacent Country Park
 - (iv) The effect of the proposal on the living conditions of the occupants of nearby dwellings

Reasons

Ecology and trees

5. The Preliminary Ecological Appraisal Report (PEAR) recommends that further survey work relating to habitats, Great Crested Newts, birds and bats be undertaken. In addition, surveys relating to Water Vole, White Clawed Crayfish and Otter are recommended if works are to impact on areas 10 metres either side

of the Washbrook. The plans submitted show that a no development zone of only 4.5 metres would be provided on each side of this watercourse.

6. The submissions therefore do not follow the recommendations of the PEAR in terms of the information that should be provided. Indeed, the PEAR itself states that it is not intended that the report should be submitted with a planning application for development of the site, unless supported by the results of further surveys and a detailed assessment of the effects of the proposed development. Accordingly, there is insufficient information provided to assess the impacts on ecological interests on the site and uncertainty as to any amendments to the scheme or mitigation measures that might be needed.
7. This fails to follow the approach set out in *The Office of the Deputy Prime Minister Circular 06/05: Biodiversity and Geological Conservation* and there is nothing before me to explain why this is an exceptional circumstance where the survey work that has been identified as necessary could be carried out after planning permission has been granted and secured by way of a planning condition. Whilst the appellant states that they would be willing to contribute to off-site enhancements there is not a mechanism provided to do this and this would not in any event overcome the failure to firstly demonstrate what the on-site impact would be.
8. There is a dispute between the parties as to whether a provisional Tree Preservation Order that was placed on the site was ultimately confirmed. In addition, it is not entirely clear how the restocking notice issued by the Forestry Commission would be complied with in terms of what space would be required to allow trees to develop to full maturity and not have their long-term health and retention adversely affected by the proposal. These are matters which would themselves require further clarification, however given my findings above relating to the absence of other ecological survey work, this is not a matter which is determinative on my conclusions on this main issue.
9. Therefore, the submission fails to show that the proposed development would conserve, protect and enhance biodiversity and it would fail to accord with Policy 37 of the Oadby and Wigston Local Plan 2019 (LP) in that respect.

Flood risk

10. Following the determination of the planning application the Environment Agency (EA) have withdrawn their previous objection to the appeal proposal. This is on the basis of data provided by the appellant which shows the appeal site to fall within a 1 in 1000 annual chance of flooding area (equivalent to the flood zone 2 designation) with a small part of the land within the 1 in 100 annual chance of flooding area plus 20% to account for climate change, as opposed to flood zone 3 which the EA flood map shows it within.
11. Whilst this addresses the EA's concern about flood risk, it is a requirement of the Framework that a sequential test is undertaken to steer new development to areas with the lowest risk of flooding from any source. As set out in the Planning Practice Guidance (PPG)¹, it is for the relevant decision maker to consider whether the sequential test is passed. In this instance, the testing information is very limited, consisting of brief correspondence from two estate agents. I am not persuaded

¹ Paragraph: 029 Reference ID: 7-029-20220825

that this represents a robust testing of sequentially preferable sites along the lines set out in the PPG².

12. Therefore, the submission does not demonstrate that there are no sequentially preferable sites on which the proposed development could be located. As such it fails to accord with Policy 38 of the LP where it states that development in areas that would be at risk from flooding must be avoided unless it can be demonstrated that appropriate land at lower risk is not available.

Green Wedge

13. The appeal site is within the Oadby and Wigston Green Wedge. Policy 42 of the LP sets out that Green Wedges protect important areas of green land within the Borough and that the Council will retain these areas as open and undeveloped. Notwithstanding this, the policy allows for outdoor leisure, recreation and sporting facilities and associated development necessary to facilitate and support these uses within Green Wedges.
14. The accompanying text to the policy notes that, as well as farmland and open countryside, the Oadby and Wigston Green Wedge comprises of many appropriate, leisure activity uses including sports grounds and training facilities, a racecourse, a golf course and a country park. The football ground located on the opposite side of Washbrook Lane is an example of such development within the Green Wedge. Parklands Leisure Centre is a large building which too sits in the Green Wedge.
15. The proposal would encompass a clubhouse and five football pitches, which are intended to be enclosed by fencing, along with sections of perimeter acoustic fencing and a car park. This would be a sporting facility with the associated development necessary to facilitate it. It would therefore be one of the development types supported within a Green Wedge. It would retain the appeal site as generally open albeit not undeveloped, however there is an apparent contradiction in the policy because it is not possible to allow both associated development and yet keep a site entirely undeveloped.
16. The objectives of the Green Wedge are to prevent the merging of settlements, to guide development form, to provide a 'green lung' between the urban area and the countryside and to act as a recreational resource. The appeal proposal would not in principle compromise any of those objectives nor have an adverse impact on the Green Wedge as a whole. Furthermore, it would promote the objective of acting as a recreational resource. Consequently, when taken in the round, it would accord with Policy 42 of the LP where it sets out the aims of Green Wedges.
17. The reason for refusal also refers to the impact that would arise upon the wider landscape setting of the site and the adjacent Country Park. However, the appeal site is primarily viewed against the existing residential dwellings to the east, an established dense tree belt to the south and the sports ground to the west. The impact on the wider landscaping setting would be negligible in that context, and the presence of the tree belt would ensure both screening and separation with respect to the relationship between the proposed development and the Country Park. There would therefore be no conflict with Policy 44 of the LP where it seeks to conserve and enhance distinctive landscapes.

² Paragraph: 080 Reference ID: 7-080-20220825

Living conditions

18. The appeal site shares boundaries with existing dwellings to the east and south. It is proposed to erect an acoustic fence along those boundaries. A Noise Impact Assessment (NIA) was provided with the planning application, which takes reference from Sport England's Artificial Grass Pitch (AGP) Acoustics – Planning Implications Design Guidance Note 2015. This sets out expected noise generation from the use of AGP, with the most significant noise source from a typical AGP sports session being voice. The NIA concludes that based on the existing background noise levels, the expected noise levels generated by the proposed development and with the provision of an acoustic fence, there would be no adverse impact from noise at the nearest receptors.
19. The NIA was considered by the Council's Environmental Health Team (EHT) and no objection was raised subject to conditions including a restriction on hours of opening. With those controls in place, I have no reason to find that the noise levels experienced at the nearest dwellings would be of such magnitude so to result in harm to the living conditions of their occupiers. Whilst reference has been made by interested parties specifically to shouting, the guidance provided by Sport England encompasses noise generated from a AGP including voices.
20. The proposed development would also include floodlighting. A Floodlighting Impact Study provides an assessment of the impact of this and demonstrates that there would not be a level of light spill towards the adjacent dwellings that would be likely to give rise to harm to the living conditions of their occupiers. Again, there was no objection from the EHT on the basis of this information. Therefore, on the evidence available to me, I am satisfied that there would be no harm to the living conditions of the occupiers of nearby dwellings as a result of the proposed floodlights.
21. In conclusion, the proposed development would not result in harm to the living conditions of the occupiers of nearby dwellings as a result of noise or from the lighting proposed. Consequently, the proposal would accord with Policy 6 of the LP where it requires that new development proposals protect local amenity. Whilst the decision notice also refers to Policy 44 of the LP, this does not appear relevant to the matters that fall for consideration under this main issue.

Other Considerations

22. The appeal site is located in a sustainable urban location, being accessible by different modes of transport and it is within walking distance for a large number of the local population. There would be social and economic benefits through increasing access to sporting facilities which could help to deliver one of the Council's corporate objectives relating to high quality and healthy lifestyles. These are considerations which collectively offer moderate weight in support of the proposal.
23. It is stated by the appellant that there is strong demand for 5 a side pitches in the area and resultant need for new provision, but only very limited evidence has been provided to support this assertion. This matter therefore carries limited weight.
24. There was a considerable amount of support for the proposal and the Oadby Civic Society did not object. Whilst I have had regard to the representations both in

support and to the many also received in opposition, their volume cannot itself be determinative on the outcome of the appeal.

Planning Balance & Conclusion

25. I have found that the proposal would not compromise the objectives of the Green Wedge or cause harm to the living conditions of the occupiers of nearby dwellings. However, it has not been shown that the proposal could be achieved without causing harm to ecological interests nor that the sequential test for flood risk has been passed. For these reasons the proposal fails to accord with the development plan, taken as a whole.
26. Balanced against this it would provide the benefits I have outlined which collectively offer moderate weight in its favour, alongside the limited weight I have afforded to the need for the development. Those considerations do not outweigh the harm that would result and the conflict with the development plan.
27. For the reasons given above, the appeal should therefore be dismissed.

Graham Wright

INSPECTOR