



Appeal Decision

Site visit made on 9 December 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Appeal Ref: APP/K0425/W/24/3347750

Kimble Farm, Dudley Lane, Southend, Buckinghamshire RG9 6JP

- 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 Shlewet against the decision of Buckinghamshire Council.
- The application Ref is 23/07498/FUL.
- The development proposed is creation of a padel court, including the erection of glass/mesh walls.

Decision

1. The appeal is allowed and planning permission is granted for creation of a padel court, including the erection of glass/mesh walls at Kimble Farm, Dudley Lane, Southend, Buckinghamshire RG9 6JP in accordance with the terms of the application, Ref 23/07498/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Local Planning Authority (LPA) refused planning permission for a previous scheme¹ that included an enclosed equestrian indoor riding arena, and a tennis court alongside it. An appeal lodged against this refusal was dismissed in 2023². Upon review of the submitted plans for this scheme, the court and its walled enclosure subject of that previous appeal appear to be identical to the current proposal in terms of siting, layout, scale and design. I also note that whilst the reference to "padel court" within the current appeal's development description differs from "tennis court" under the previous appeal, both terms are used in the annotations to the plans provided with both appeals.
3. Upon my reading of that previous appeal decision, it appears that the Inspector for that appeal did not identify specific visual or landscape harm in respect of the proposed tennis/padel court. It also appears that the Inspector was unable to satisfactorily conclude that there was a genuine need for the tennis/padel court, based on the evidence provided at that time. Whilst this previous appeal decision is a significant material consideration and includes a very similar proposal, I must also have regard to current submitted evidence and my own site visit findings. I have determined the appeal on this basis.
4. The revised National Planning Policy Framework (the Framework) was published in December 2024. I have given the main parties an opportunity to comment on the Framework revisions, and have had regard to the comments received in my consideration of this appeal.

¹ LPA Ref: 21/08323/FUL

² APP/K0425/W/22/3301741

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the Chiltern National Landscape (NL); and
- whether the proposal is a suitable form of development having regard to the spatial strategy for the area.

Reasons

Character and appearance

6. The appeal site comprises part of an existing rectangular-shaped manège enclosed by hedgerows, sited alongside the buildings of Kimble Farm including the large farmhouse. The manège is also enclosed by wooden picket fencing and a gate access towards the Kimble Farm buildings. Vehicular access is via a long tarmacked driveway that also forms part of a public right of way (bridleway), which dissects the manège from the Kimble Farm buildings and continues further northeast. There is also a permissive path running immediately along the far southeast side of the manège.
7. Kimble Farm and the proposal site are both within and surrounded by open countryside within the Chilterns NL, and also within Landscape Character Area 15.2 "Fawley Undulating Plateau" as defined within the Wycombe Landscape Character Assessment 2011 (LCA). Key characteristics of this character area, as identified in the LCA, include large swathes of woodland interspersed with pasture, narrow rural lanes enclosed by tall hedgerow, a network of rights of way and bridleway, vernacular building types and a rural and peaceful character. I found the undulating landscape surrounding the proposal to be reflective of these key characteristics.
8. The manège however appears as a non-natural feature due to its flat gravelled grounds on what appears to be an engineered elevated siting above some of the adjacent land. It therefore reads as a man-made form that departs from the natural key LCA characteristics as listed above.
9. Views of the padel court walls from along the bridleway route would be largely restricted by high boundary hedgerows around the manège, despite it being sited mainly on higher ground level than this public route. The manège is also sited partially higher than the permissive route, but views of the proposal would also be well restricted by the hedgerow along its boundary.
10. Part of the proposed mesh walls forming the top section of the padel court enclosure would be visible above the existing hedge line. Some close-range filtered views of the overall structure would be visible through the hedgerow, although the mainly glazed form would reduce the visual impact. When viewed from further away along both the bridleway and permissive path routes, the projection of built form above the boundary hedge would be much less apparent. The overall proposed development would remain well screened, and views from the southwest approach along the permissive path would be framed alongside the existing higher buildings of Kimble Farm.

11. I accept that a padel court at this location could be described as a spread of domestic paraphernalia in the countryside and NL. The existing manège however already has a man-made appearance and a domestic function insofar as it forms a development ancillary to the main dwelling of Kimble Farm.
12. The proposed padel court and glass/mesh walls cannot be said to form an enhancement of the landscape or an improvement to the character of the area. Statute³ requires me to seek to further the statutory purposes of Protected Landscapes, including NLs.
13. As I have set out above, the proposed scale, appearance, siting and function within the existing enclosed manège and near to the Kimble Farm buildings would not significantly impact or alter the existing landscape. The development would therefore respect the character and appearance of the surrounding area and conserve the natural beauty of the NL. I am satisfied that the existing and proposed landscaping can be secured by appropriately worded planning conditions.
14. I therefore conclude that the proposed development would not conflict with the aims of Policies CP9, DM30 and DM35 of the Wycombe District Local Plan 2019 (WDLP) when read as a whole. Collectively, these policies require, amongst other things, development to conserve the natural environment and natural beauty of the Chilterns NL and be of high quality design in terms of positively responding to the functions, qualities and character of the proposed development's natural and built context.

Spatial Strategy

15. Policy DM44 of the WDLP states that within that portion of the countryside outside of the Green Belt, and subject to other relevant policies, permission will only be granted subject to certain criteria. Two of the listed criteria are relevant to this appeal. Upon my reading of Policy DM44, a development only has to comply with one of the listed criteria to comply with this policy as a whole.
16. DM44 criterion j) supports the redevelopment of previously developed land (PDL), provided this respects the rural character of the surroundings. The WDLP does not provide a definition of PDL. I therefore consider it appropriate to refer to Annex 2 to the Framework, which defines PDL as, amongst other things, land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed.
17. It is common ground between the Main Parties that the existing manège has been in situ for many years. The Officer Report indicates that the manège has existed since 1995 or 1996, and there is no evidence before me of an extant planning enforcement notice served on this development. As such, for planning purposes the manège appears to be lawful through the passage of time⁴. The overall manège comprises a large gravelled area enclosed by picket fencing and a gate.
18. Having regard to all the above, in my judgement the existing manège comprises PDL. As I have already set out in the previous main issue, I have found that the proposed development would respect the character and appearance of the surrounding area, in compliance with WDLP Policies CP9,

³ Section 245 of the Levelling-up and Regeneration Act 2023

⁴ Section 171B of the Town and Country Planning Act (As Amended)

DM30 and DM35. In turn, the proposal would therefore also respect the rural character of the surroundings.

19. I therefore conclude that the padel court proposal complies with criterion j) to Policy DM44, as it forms a redevelopment of PDL that respects the rural character of the surroundings. It is thus an acceptable form of development in the countryside outside of the Green Belt and complies with the spatial strategy for the area.
20. DM44 criterion b) supports development for, amongst other things, outdoor sports and recreation where there is a genuine need. The main parties are in dispute as to whether the proposal complies with this criterion. However, as I have found the proposal to comply with criterion j) as set out above, I need not consider this matter any further.
21. The LPA describe the proposal as a change of use to residential which is not supported in the countryside. It is therefore argued that this type of facility for personal use should be proposed within residential curtilages, not in the open countryside. Whilst the proposal site is outside of the garden curtilage of Kimble Farm, I have found that it is PDL and that it already serves a domestic function. I have also found the proposed development to comply with WDLF Policy DM44. The sequential approach as suggested by the LPA is therefore unnecessary in this instance.

Other Matters

22. Concerns have been raised by the Parish Council, a local Councillor and the local Ramblers Association regarding noise impacts upon bridleway users generated by bat on ball, including horses and the tranquillity of the area. Given the proposed scale and nature of use near to a working farm and at some distance from the nearest dwelling, I do not envisage any adverse noise impacts on bridleway users or the tranquillity of the area. I do not envisage that a domestic use of the padel court would generate a materially greater level of traffic on the bridleway. Any issues regarding existing signage and maintenance of the bridleway are not matters that fall within the scope of this appeal.

Conditions

23. I have considered the LPA's suggested conditions against the tests in the Framework and Planning Practice Guidance (PPG), and have amended their wording, where necessary.
24. I agree that a condition specifying time limits for the development (condition 1) is necessary in the interests of planning certainty. A condition is necessary to confirm the approved plan details (condition 2) in the interests of clarity. I have deleted the suggested reference to "the details contained in the planning application hereby approved", as this is insufficiently precise. I have also deleted reference to the location plan, as it is not an approved plan, and deleted reference to "unless the Local Planning Authority otherwise first agrees in writing", as any amendments to the approved plans would be subject to an additional application to the LPA in any event.
25. Given the rural location of the site within the Chilterns NL, I consider it necessary to impose a pre-commencement condition to secure details of the proposed soft landscaping and existing trees and hedgerows to be retained

around the padel court and glass/mesh wall enclosure (condition 3). I also note that no elevation details of the proposed post and rail fencing delineating the access route to the padel court from the existing manège are provided. Condition 3 therefore also refers to hard landscaping details.

26. The LPA has suggested a pre-commencement condition requiring submission of details of the means of enclosure and layout of the padel court. In terms of layout, I consider that there is sufficient detail in this regard within the approved plan numbers PL-02 and PL-03. However, these plans do not confirm the colour of the padel court enclosure. Given the site's rural location in a NL, it is necessary to confirm this by means of pre-commencement condition (condition 4). Condition 5 is necessary to ensure the implementation and retention of the landscape details to be agreed under condition 4.
27. The LPA suggests a further pre-commencement condition to ensure that external lighting details are submitted and agreed upon before installation. Although lighting poles for the court are included in the brochure accompanying the initial application, they are not included in the above approved plans. Moreover, the Design & Access Statement advises that the proposal would not include any external lighting. Whilst I accept that this matter could be controlled by condition in some circumstances, the Council's Ecologist assessed the proposal on the basis that there would be no artificial lighting. Given this along with the site's rural location and the potential impact on protected species, I am not satisfied that external lighting could be sufficiently assessed in further detail by means of planning condition alone.
28. A condition securing provision of a bat and bird box as shown in approved plan number PL-02 (condition 6) is necessary in the interests of biodiversity. I have added reference to "the development hereby permitted" in the interests of clarity.

Conclusion

29. The proposal is in accordance with the development plan as a whole, and the material considerations do not indicate that a decision should be made other than in accordance with it. The appeal is therefore allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be built in accordance with plan numbers PL-02 and PL-03.
- 3) No development shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include elevation and specification details of the proposed post and rail fence; and details of proposed hedge planting and existing trees and hedgerows on the land to be retained, along with measures for their protection throughout the course of development.
- 4) No development of the glass/mesh walls hereby permitted shall commence until details of their finished colour are submitted to and approved in writing by the local planning authority.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees, plants or hedgerows (including existing) which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No use of the development hereby permitted shall commence until one bird box and one bat box have been installed in accordance with approved plan PL-02 and retained in that form thereafter.

*****End of Schedule*****