



Appeal Decision

Site visit made on 25 June 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2025

Appeal Ref: APP/P3610/W/24/3355981

Hobbledown, Horton Lane, Epsom KT19 8PT

- 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 Hobbledown Limited against the decision of Epsom and Ewell Borough Council.
 - The application Ref is 24/00346/FUL.
 - The development proposed is new waterplay area comprising formation of shallow water feature and erection of play equipment and associated structures.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hobbledown Limited against Epsom and Ewell Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - b) the effect of the proposed development on the character and appearance of the area; and
 - c) 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 Inappropriate Development

4. The National Planning Policy Framework (the Framework) advises that in the Green Belt, development should be regarded as inappropriate. Paragraphs 154 and 155 of the Framework do however set out exceptions where development in the Green Belt might not be considered as inappropriate.
5. Policies CS1 and CS2 of the Core Strategy 2007 (CS) seek to maintain and protect the Green Belt from inappropriate development. In this respect they are

broadly consistent with the Framework, although the more up-to-date and detailed approach of the Framework is to be preferred.

6. Paragraph 154(h)(ii) provides an exception for engineering operations in the Green Belt, provided that they preserve openness and do not conflict with the purposes of including land within it. The Council considers that the proposed lakes would accord with the provisions of this Paragraph and would not be inappropriate development. Having regard to the information before me and my own observations I have no reason to come to a different conclusion.
7. Paragraph 154(b) allows for the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. Both main parties consider that the scheme falls within the term outdoor recreation and that it should be considered under Paragraph 154(b). I have no reason to disagree. There were no other exceptions to inappropriate development as set out in the Framework which were identified as relevant to the proposal. Consequently, the key issue is whether the openness of the Green Belt would be preserved if the new waterplay area were constructed.
9. The area of land on which the waterplay area is proposed is currently largely devoid of built development. An existing zip wire structure is in place and at the time of my site visit a small hut-like structure was positioned along the northern boarder of the site. Neither unduly effected the sense of spaciousness of the site.
10. The adjacent bird of prey display area contains some perch-like structures and the nearby maze and zorbing areas are open, generally undeveloped pieces of land. There are some buildings such as the bird of prey centre further to the south and animal enclosures to the west as well as the existing play area to the east. Nevertheless, they are well spread out from each other and the appeal site. Consequently, the site at present contributes positively to the spaciousness of this part of the Farm generally and the openness of this part of the Green Belt
11. The proposed waterplay area would comprise a number of different elements of varying shapes and sizes. Some would be more open frameworks, such as the waterplay system, whereas others would be enclosed structures. The heights of these would also vary with some of the taller elements reaching over 4m in height.
12. The waterplay area would be contained within one part of the existing field but would nonetheless still cover a sizable area. The proposed layout would have some of the tall structures spread across the site, such as the slide (3.88m high) at one end; the climbing nets (up to 3.75m) and awnings (up to 4.85m) more centrally; with the water activator (up to 5.5m) at the other end. Even taking into account the existing structures and other buildings/structures nearby, the waterplay area when taken as a whole would have a noticeable change on this part of the site.
13. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. Furthermore, preserving openness does not mean that no change can occur.

14. However, while the proposal would to some extent be visually enclosed by existing landscaping on the northern and eastern borders of the site, and views of the waterplay area would not be extensive, this is not the same as it not being visible at all. It also does not mean that there would be no impact on visual openness. In comparison to how the Green Belt is currently perceived, there would be a limited and localised but perceptible visual loss of openness.
15. Due to their size and characteristics, many of the individual elements of the waterplay area would have little or no effect on spatial openness. However, when taken as a whole, and acknowledging that there would be space between the individual elements, there would similarly be a small but nonetheless evident spatial loss to the Green Belt.
16. The site is away from any built-up areas or historic towns, so would not contribute to the sprawl or merger of urban areas or affect their setting or character. The proposal involves development within the boundary of the existing operation, so there would be no encroachment into the countryside. The waterplay area is unlikely to discourage the recycling of derelict or other urban land. The proposal would not therefore conflict with the purposes of including the land in the Green Belt.
17. However, as I have not found the proposal to preserve the openness of the Green Belt it does not fall within the exception set out in Paragraph 154(b) of the Framework and so represents inappropriate development in the Green Belt.
18. For the reasons given above, there is conflict with Policies CS1 and CS2 of the CS. The proposal would also not be in accordance with the provisions of chapter 13 of the Framework, which are concerned with the protection of Green Belt land.
19. Framework Paragraph 153 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also confirms that any harm to the Green Belt attracts substantial weight.
20. The Council's decision notice refers to Policy DM3 of the Development Management Policies Document 2015 (DMPD). However, as this relates to the replacement and extension of buildings in the Green Belt it does not appear relevant to this appeal.

Character and Appearance

21. The proposed waterplay area would occupy a piece of land near to an existing play area, maze, bird of prey display arena and zorbing area. When seen in that context, the site is clearly part of the wider Hobbledown Farm site.
22. It is also a largely open area of land which contributes to the spaciousness of the area. The change that would occur would clearly be perceptible from around the site. There would be both a spatial and visual consequence given that the development would result in some incursion of built form into what is in comparison to some other parts of the Hobbledown Farm operation, a more open and spacious area. There would also be an uplift in the number of people/activity in the area as a result of the proposal.
23. However, that does not mean that in terms of overall character and appearance the change would be unduly harmful to the surrounding area. Given the

mentioned boundary treatment, the waterplay area would only be visible from a limited number of vantage points. A sufficient separation distance from the other buildings/structures nearby and the Horton Country Park would be retained. Overall, the proposal would not be seen as being out of keeping with the outdoor nature of the Farm site or the Country Park generally. As such its visual impact would not be harmful to this wider setting.

24. On this basis I am satisfied that the proposal could be accommodated without unduly affecting the prevailing character and appearance of the area. It would therefore accord with Policy CS5 of the CS and Policies DM6 and DM9 of the DMPD which, amongst other things, seek to ensure developments are of a high standard and compatible with the local character and wider landscape.

Other Matters

25. An updated Preliminary Ecological Appraisal was submitted by the appellants as part of this appeal. Waterbodies within 250m of the site were surveyed and subjected to a Great Crested Newt eDNA survey. All the results were negative. As such, there is no evidence to demonstrate that the proposal would be contrary to Policy CS3 of the CS and Policy DM4 of the DMPD which, insofar as is relevant to this appeal, seek to conserve and enhance species and habitat.
26. An Arboricultural Impact Assessment (AIA) accompanied the appeal. It identifies which trees would need to be removed or relocated as part of the scheme. A low vigour horse chestnut would need to be removed but a replacement, near to its present location, could be provided. Similarly, it would be possible to relocate the mix of young and relatively recently planted trees, whose position also impinges upon the layout of the waterplay area.
27. The AIA also notes some slight incursion into two root protection areas but this is likely to be minor and so unlikely to have an adverse impact on either tree. The areas to be subject to protective fencing are also set out in the assessment.
28. The Council has not directly addressed any specific points in the AIA but does consider that existing trees will be harmed or damaged without an adequate replanting scheme or mitigation measures. However, based on the information before me and given my own observations on site, I am satisfied that the existing trees would be sufficiently protected and that planning conditions could be imposed to ensure appropriate replanting occurs. Therefore, the proposal would accord with Policy CS3 of the CS and Policies DM5 and DM10 of the DMPD which, amongst other things, seek to ensure that trees are protected and that proposals are compatible with the natural environment.
29. The Council raised the issue of noise arising from the waterplay area and its potential impact on neighbours. In response, as part of the appeal, the appellants have provided a Noise Impact Assessment (NIA). I have reviewed the NIA and note its findings that there would be no noise impact on the nearest neighbours.
30. Interested parties have raised a number of concerns with the NIA. Some of the key ones include the timing of the noise readings, which were during September and so outside of the busy summer period. Furthermore, some of the assumptions used, such as the height from which noise would emanate, the height of fencing around neighbouring properties, the hours of operation and that the waterplay area would not increase overall visitor numbers, were queried.

31. The appellants have responded and explained why they have taken those particular approaches. These answers seem reasonable, and I am also mindful that the Council has not sought to challenge the approach or technical details/readings of the NIA.
32. Given that I have no substantive or technical evidence which would lead me to a different conclusion from that of the NIA, I find that on balance, the scheme would accord with Policies DM9 and DM10 of the DMPD which require, amongst other things, developments to have regard to the amenities of neighbours and be compatible with the local area.
33. All of the above matters were 'technical' reasons for refusal. I have not found harm in relation to them. This means that they do not weigh against the proposal and are neutral within the overall balance.

Other Considerations

34. The proposal would be an investment in the site and is designed to help support the business's future ambitions. The site is said to employ around 120 people, many of them under 21. There are also volunteer roles with the animal team available. I have little doubt that the proposal is intended to increase the attractiveness of the Hobbledown Farm site for visitors and thus help support the operation as a whole.
35. However, there is little detailed information provided on the site's current performance/visitor numbers and only somewhat generic information offered in relation to the tourism sector generally. It is not clear the extent to which the site is under threat from other attractions or the extent to which the waterpark would help maintain or boost employment. It is noted that both the NIA and appeal statement indicate that the waterpark is not intended to increase overall visitor numbers.
36. The Framework advocates that significant weight should be placed on supporting economic growth but the extent of the growth in this case is not specified in any detail. I am also mindful that there is nothing intrinsically unusual about a development providing economic development or creating employment, since many developments would have that effect. Thus, if repeated often enough, such proposals would cause cumulative harm to the Green Belt.
37. A 2017 appeal decision on a different children's zoo/adventure park has been presented in support of the current proposal. In that case a number of ancillary structures were not considered to materially harm the openness of the Green Belt. Of them, the climbing and aerial elements were said to largely have been confined to existing well-treed areas. While there is some tree cover around the current appeal site, the context of these two sites does not appear to be entirely comparable. It is also not clear the extent to which the climbing/play areas are similar to the type and size of structures comprised within the waterplay area. Therefore, it does not alter my findings in relation to the effect of the current proposal on the openness of the Green Belt.
38. The site is said to encourage education and a healthy lifestyle. While this may be the case, I am not aware that this is the only facility in the area which offers such 'benefits'. Indeed, given the Country Park and nearby gym, it is possible they may also offer such attributes within very close proximity to the site. As such, it is a matter which attracts modest weight in support of the proposal.

39. There are a number of matters on which no concerns were said to be raised, such as flood risk, health and safety. However, these represent a lack of harm and so would be neutral factors which would not weigh positively in favour of the scheme.

Conclusion

40. The proposal would constitute inappropriate development in the Green Belt through harm to its openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
41. For the reasons given above, I find that the other considerations in this case do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
42. The development is contrary to the Framework and to the development plan when read as a whole. I have considered all other matters raised but none outweigh the conclusions I have reached.
43. For the reasons set out above, I dismiss the appeal.

Stewart Glassar

INSPECTOR