Supplementary Committee Agenda

Area Planning Sub-Committee East
Wednesday, 15th July, 2015

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: Adrian Hendry (Directorate of Governance)
Email: democraticservices@eppingforestdc.gov.uk Tel: 01992 564243

8. PROBITY IN PLANNING - APPEAL DECISIONS, 1 OCTOBER 2014 TO 31 MARCH 2015 (Pages 3 - 34)

(Director of Governance) To consider the attached appeal letters included within the report.

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Appeal Decisions

Inquiry held on 15 – 17 July 2014

Site visit made on 17 July 2014

by Katie Peerless Dip Arch RIBA

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

Decision date: 21 October 2014

4 Appeals at Marlow, High Road, Thornwood, Epping CM16 6LU

- The appeals are made under section 174 (Appeals A & B) and section 78 (Appeals C & D) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Timothy Evans.
- All evidence of matters of fact in support of the appellant on the enforcement appeal on ground (d) was given under oath.

This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 18 September 2014.

Appeal A: APP/J1535/C/13/2209407

- The appeal is made against an enforcement notice issued by Epping Forest District Council.
- The Council's reference is ENF/0021/13.
- The notice was issued on 18 October 2013.
- The breach of planning control as alleged in the notice is the change of use of the Land from agriculture for the purpose of storage, sorting, distribution, recycling (crushing and screening) of concrete, hardcore, tarmac and screen waste together with the stationing of related plant and machinery.
- The requirements of the notice are: 1. Cease the use of the Land for storage, sorting, distribution, recycling (crushing and screening) of concrete, hardcore, tarmac and screen waste. 2. Cease the use of the Land for the stationing of plant and machinery in connection with the recycling business. 3. Remove from the Land all concrete, hardcore, tarmac and screened waste, machinery and plant. 4. Restore the Land to its condition prior to the unauthorised development having been carried out.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B: APP/J1535/C/13/2209409
Marlow, High Road, Thornwood, Epping CM16 6LU

- The appeal is made against an enforcement notice issued by Epping Forest District Council.
- The Council's reference is ENF/0021/13
- The notice was issued on 18 October 2013.
- The breach of planning control as alleged in the notice is the change of use of the Land from use as a ménage *(sic)* for the purpose of parking and storage of vehicles and the storage of plant and machinery in connection with the recycling business operating from the adjoining land.
- The requirements of the notice are: 1. Cease the use of the Land for the parking and storage of vehicles. 2. Cease the use of the Land for the storage of plant and

machinery. 3. Remove from the Land all vehicles, plant and machinery. 4. Restore the Land to its condition prior to the unauthorised development having been carried out.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C: APP/J1535/A/13/2206035
Marlow, High Road, Thornwood, Epping CM16 6LU

- The appeal is made under of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Timothy Evans against the decision of Epping Forest District Council.
- The application Ref EPF/0868/13, dated 29 April 2013, was refused by notice dated 18 September 2013.
- The development proposed is use of land for storage, sorting, distribution, recycling (crushing and screening) of concrete, hardcore, tarmac and screen waste together with stationing of related plant and machinery.

Appeal D: APP/J1535/A/13/2209276
Marlow, High Road, Thornwood, Epping CM16 6LU

- 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 Timothy Evans against the decision of Epping Forest District Council.
- The application Ref EPF/0877/13, dated 29 April 2013, was refused by notice dated 18 September 2013.
- The development proposed is use of existing menage *(sic)* for the parking/storage of vehicles and plant and machinery in connection with established recycling business

Decisions

Appeal A: APP/J1535/C/13/2209407

1. The enforcement notice is varied by the deletion of the words *(crushing and screening)* in the allegations and requirements and the substitution of the Plan A attached to this Decision for the Plan attached to the enforcement notice. Subject to these variations the appeal is dismissed and the enforcement notice is upheld in respect of the area hatched black on Plan A.

Appeal B: APP/J1535/C/13/2209407

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal C: APP/J1535/A/13/2206035

3. The appeal is dismissed insofar as it relates to the crushing and screening operations on the land. The appeal is allowed insofar as it relates to the remaining operations and planning permission is granted for the use of the land for storage, sorting, distribution and recycling of concrete, hardcore, tarmac and screen waste together with stationing of related plant and machinery at Marlow, High Road, Thornwood, Epping CM16 6LU in accordance with the terms of the application, Ref EPF/0868/13, dated 29 April 2013, and the plans submitted with it, and subject to the conditions attached as Annex A to this Decision.

Appeal D: APP/J1535/A/13/2209276

4. The appeal is allowed and planning permission is granted for the use of existing manège for the parking/storage of vehicles and plant and machinery in connection with established recycling business at Marlow, High Road, Thornwood, Epping CM16 6LU in accordance with the terms of the application, Ref EPF/0877/13, dated 29 April 2013, and the plans submitted with it, subject to the conditions attached as Annexe A to this Decision.

Main Issues

5. I consider that the main issues in these cases are:

Appeals C & D

(i) whether the development represents inappropriate development within the Green Belt and, if so, whether there are any material considerations that outweigh the harm caused by such development, and any other harm, and are sufficient to justify the proposal on the grounds of very special circumstances.

(ii) the effect of the development on:

(a) the living conditions of occupiers of neighbouring properties with particular reference to noise and disturbance

(b) the character and appearance of the surrounding area

Appeal A, ground (d)

(iii) whether the development is immune from enforcement action through the passage of time.

Procedural matters

6. At the opening of the Inquiry, the Council confirmed that it was not raising any objections to the grant of planning permission based on flood risk or highway safety, although both these issues had been referred to in the enforcement notices. Also, after updated evidence on noise had been presented, the Council's expert witness accepted that the latest attenuation measures carried out have reduced the noise coming from the site to acceptable levels and agreed that these measures could be maintained through conditions attached to any planning permission. The Council therefore formally withdrew its objections to the scheme on noise grounds.

7. Similarly, the Council's planning witness agreed that the landscape impact of the additional areas being used for the waste re-cycling business could be satisfactorily mitigated through the imposition of a landscaping scheme on surrounding land, which is in the ownership of the appellant. The Council nevertheless, maintained its objections on Green Belt grounds.

Appeal A - the 'land' enforcement notice

8. It was accepted at the Inquiry that although the Council believed that operations relating to crushing and screening of materials on the area of land marked on the plan attached to the enforcement notice that is the subject of appeal A had taken place at some point, it accepted that it could not show that this alleged use was taking place at the time the enforcement notice was issued. The appellant agreed that his appeal on ground (d) did not include evidence relating to this aspect of the allegations and both main parties invited me to delete this wording from the notice.

Site and surroundings

9. The site at Marlow lies in Green Belt countryside on the edge of the village of Thornwood. It has been used for many years as a recycling facility dealing with inert waste such as concrete, hardcore and tarmac but the wider site contains the appellant's dwelling, a stable block and land formerly used as an associated manège. Certificates of Lawful Use (CLUs) have been issued in respect of the operations on Marlow but the appellant has expanded his business into the adjacent property, known as 'Esperanza'. The 'land' enforcement notice seeks to prevent that use from continuing.

10. The former manège was granted planning permission some years ago but has also now been incorporated into the business and is used for the parking and storage of vehicles, plant and machinery. It is the 'manège' enforcement notice that is the subject of appeal B. The manège is located between the stable block and the area authorised for the waste recycling business within the Marlow land.

11. The Esperanza land was not bought by the appellant until 2009 but he had been using it informally since he purchased the Marlow site as a paddock for his horses. There was also an overgrown area of trees and scrub, referred to as the Orchard, part of which lies within the area enforced against in the 'land' notice. Much of this area has now been cleared of vegetation and part of it is being used for the business. The area enforced against is agreed to be about 20m wide, although the area for which planning permission is sought under appeal C is 10m wide where it abuts the former scrubland, reducing to 5m where it adjoins the paddock.

Reasons

Appeal A: Ground (d)

12. For the appeal on ground (d) to succeed, the uses enforced against must have been taking place on the land for at least 10 years before the issue of the enforcement notice, i.e. 18 October 2003. The appellant submits that he has been using the Esperanza land for the purposes alleged in the 'land' notice (apart from crushing and screening) for many more than the 10 years that would render them immune from enforcement action. To support this claim he has produced witnesses who confirmed how the land was used and photographs showing plant and machinery within that land. Both main parties have submitted aerial photographs, dated from between 1996 and 2013 which they consider support their cases.

13. In terms of the storage, sorting and recycling of the inert waste materials that have been imported into the Marlow site, the appellant submits that materials had gradually slipped into the Esperanza land as lumps of concrete etc. rolled off the top of the stock piles that were being processed on the Marlow land. It is clear from the photographs that, by 2009, the year in which the appellant purchased Esperanza, the stockpiled materials had extended into that land by about 20m along the length of its boundary with the area of the authorised waste business.

14. Earlier photographs certainly show some incursions of the piles into the treed area along the boundary of the Orchard and the appellant submits that there were further areas that are difficult to see from the air, as any material was hidden beneath the green canopy. However, the first photograph that shows

any significant incursion is that taken in 2005; prior to that time I consider that there is little to indicate that an area 20m deep was being used as additional storage for materials from the piles in the Marlow site.

15. If some roll-off of concrete had occurred across all the relevant area, it does not appear to have been retrieved and pulled back into the main stockpiles on any significant scale. If this had been the case, there would, I consider, have been some visible disturbance to the tree cover but there is no perceptible difference between that immediately adjacent to the small areas of incursion and the rest of the Orchard.

16. The site was visited twice in 2004 by an enforcement officer from the Council, following complaints about the incursion of stockpiles into the adjacent land. Photographs from that date certainly show that there was some roll off into the Esperanza land but this was said, at that time, to extend to an area about 5m wide. The enforcement officer marked what he considered to be the boundary of Marlow on one of these photographs but the appellant considers that he made a mistake and had actually shown the boundary some distance into the Esperanza land. If this is correct, then it would be the case that the stockpiles had encroached some distance over the Marlow boundary by that time.

17. However, the claim that the boundary is wrong is based, in part, on the fact that there is a tree in the photograph that the appellant says must be on Esperanza land because by 2004 all the trees had been cleared from Marlow. Nevertheless, the 2007 and 2009 aerial photographs show shadows cast into the manège from trees which are on, or within, the boundary of the Marlow land.

18. It is now virtually impossible to be clear about the locations from which some of the ground level photographs relied upon were taken, as there has been a wholesale clearance of the vegetation since then. The only remaining fixed point is 'tree 1' which is located on the western boundary of the Marlow land where it intersects with Esperanza and the adjacent rugby club. Whilst this helps to pinpoint some of the photographic locations, much of the interpretation must necessarily be speculation. I am therefore not persuaded that the relevant photograph is conclusive on this matter.

19. I consider that the evidence of the use of the enforcement area for the storage of the inert waste materials brought onto the site for processing is not unambiguous enough for me to conclude, on the balance of probabilities, that it had spread 20m into the Esperanza land for a period of 10 years prior to the issue of the notice. There seems to have been what was referred to as a 'gentlemen's agreement' between the original enforcement officer and the appellant about the 5m 'buffer zone', and I conclude that this is the limit of the extent of the encroachment.

20. Turning to the other uses of the enforcement notice land to which the appellant submits the land had been put, these include the storage of machinery, lorry parts and tyres that were previously used in his business and were placed on the land to be used for spare parts if needed. There are, indeed, photographs of various vehicle parts, disused machinery and tyres scattered amongst the vegetation on the land. The Inquiry heard that the appellant would allow business contacts to search through the Orchard area to salvage for parts for their own vehicles.

21. Again, there is no definitive evidence on the extent of the encroachment of these items into the Esperanza land but, in any event, I do not consider that the placing of them on it amounts to the material change of use enforced against, that is the '*stationing of plant and machinery in connection with the recycling business*'. This description, I consider, relates to the use of fully operational machinery from the Marlow site moving onto the Esperanza land in connection with the daily operation of the business. Although it has been agreed that the crushing and screening was not taking place at the time the enforcement notice was issued, the stock piles had encroached onto the Esperanza land by that time and were being moved with the equipment used in the business based on the Marlow land.

22. There is some evidence that vehicle and machinery parts may have been salvaged for spares for the business but the appellant's evidence was that this happened several years ago and there is little to show that this had been a regular occurrence over the requisite 10 years. Selling parts to others does not, to me, relate directly to the waste re-cycling business. Tyres were used to hold down covers on the soil heaps but the appellant confirmed that he had had to pay to have a large number of tyres removed from the land, indicating that they were of no further use to him.

23. The appellant notes that the machinery and parts would have had a scrap value and, if they were not being used for the business, he would have been better off selling them as such. This may be so, but it seems more likely that, while the items were scattered within the Orchard, it was less trouble to leave them there and allow others to salvage what they could from them.

24. I also note that the appellant confirmed that he was hoping to demonstrate a 10 year use of the land for his business and was advised to keep the items to support his case. In conclusion, I consider that even if the items deposited on the land were once used specifically in connection with the waste recycling business, by the time they had been, in effect, scrapped, their storage on the land was no longer connected to the operation of the waste business enforced against.

25. For all the above reasons, I find that it has not been demonstrated, on the balance of probabilities, that the use of all the area of Esperanza land enforced against has gained immunity from enforcement action through the passage of time. I will however, indicate on Plan A attached to this Decision, the 5m wide area of the 'gentlemen's' agreement' on the Marlow boundary, which I consider has been in use by the waste business since the relevant date. The appeal on ground (d) succeeds to this limited extent.

Appeals C & D

Green Belt

26. The appellant seeks planning permission for the use of a 10m wide area adjacent to the Marlow boundary, reducing to 5m where it leaves the Orchard and runs within the paddock area, for the waste re-cycling business. He also wishes to use the former manège for parking and storing of vehicles and plant associated with the business. All the subject land lies within the Green Belt and there is no dispute between the parties that the change of use of the Esperanza land would be inappropriate and that harm by definition would be consequently associated with this.

27. The appellant however disagrees that the use of the manège would also be inappropriate in Green Belt terms. He refers to paragraph 89 of the National Planning Policy Framework (NPPF) where it states that redevelopment of previously developed sites may not be inappropriate provided that there would be no greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

28. However, this paragraph relates to the construction of new buildings on such land, not to changes of use. Changes of use are not included in the list of exceptions to inappropriate development and I therefore consider that the proposal to use the land in a different way to the open manège also amounts to inappropriate development.

29. However, any harmful impact on openness in this area would be caused only by the transitory stationing of the plant and machinery and would not be as permanent as the construction of a new building. The manège is already surrounded on 3 sides by authorised development and now that I have found that there is also a 5m wide strip of lawful development on the Esperanza land, it is consequently completely enclosed by other development. The contribution it makes to Green Belt openness is therefore minimal.

30. Similarly, the level of harm relating to loss of openness, through the creation of stockpiles up to about 6m high on the Esperanza land, and the harm due to the consequent encroachment into the countryside, would not be constant, as the piles would vary in height and ground coverage, depending on the status of the business. I also consider that there would be no encroachment into the countryside caused by the use of the manège land, as it is already falls outside the countryside and has done since the planning permission was granted that changed it from its previous agricultural use.

31. Nevertheless, the proposed developments will cause harm as noted above and planning permission could only be granted for them if there are any material considerations that are sufficient to outweigh that harm and amount to the very special circumstances needed to overcome the policy objection to the developments.

Living conditions and landscape impact

32. The Council has now withdrawn its reasons for refusal based on a possible increase in noise levels should planning permission be granted and accepts that this could be controlled by condition. Similarly, it has also agreed that landscaping conditions could satisfactorily mitigate the impact of the developments on the character and appearance of the surrounding area. I find no reason to disagree with these assessments and conclude that there would be no additional harm arising from these issues that would weigh against the proposed developments.

Very special circumstances

33. There have been a number of complaints about the noise and disturbance caused by the operations on the Marlow land and neighbouring occupiers have clearly experienced harm to their living conditions and residential amenity because of the operation of the business. At present there are no conditions that regulate the use of the site, as the authorised use was established through the passage of time, not the grant of a planning permission.

34. Recently, the appellant has put into place a number of noise attenuation measures that appear to be working, as third parties at the Inquiry were under the impression that the appellant had reduced the scope of his operations prior to the date of the Inquiry, to limit the noise levels and subsequent complaints. However, the expert witness on noise who reported on the current levels explained that the hours of use logged on the crushing machine, which is the greatest producer of noise, had not changed to any extent in recent months.

35. I also heard the machinery in use at my site inspection and noticed that the noise of the crusher was barely perceptible beyond the site boundary even when not masked by the intermittent noise of overflying planes associated with the nearby North Weald Airfield. I therefore accept that the modifications to the crusher and hopper and the use of localised screening have resulted in noise levels falling to an acceptable level and this is also agreed by the Council, as previously noted. It is also the case that there is no dispute that there is nothing at present to ensure that these noise levels remain at these lower levels.

36. The grant of planning permission could ensure that conditions are imposed that require the whole site, including all the areas that are within the control of the appellant but outside the areas enforced against, to be subject to regulation. Although environmental regulations, rather than planning conditions, could deal with any significant noise nuisance, it is telling that although there have apparently been complaints to the Council about the operation of the site, these have not been considered serious enough to result in any warnings being passed on to the appellant.

37. Third parties who attended the Inquiry nevertheless explained how they had been badly affected by noise from the site and it would be of great benefit to them to know that the levels of disturbance they have experienced in the past would not be permitted in the future. Similarly, landscaping conditions could be imposed to improve the appearance of all of the Marlow land, not just the manège, as well as providing screening to both the authorised and unauthorised parts of the Esperanza land. It would also be possible to limit the hours during which the business can operate, which are unregulated at present.

38. Further to my findings on the ground (d) appeal, the area of land that would fall outside the authorised areas would be the manège and a 5m wide strip in the former Orchard and paddock. The harm associated with this relatively small area would be limited and I consider that the considerable benefits of regulating the existing development would be a very strong material consideration weighing in favour of allowing the appeals. Although the appellant has stated that he intends to operate the business in as neighbourly a manner as possible, the site and business could change hands in the future and there is no guarantee that a future owner would operate in the same way.

39. I conclude that the benefits of regulating the existing development are sufficient to outweigh the conflict with Green Belt policy as set out in policies GB2A and CP2 of the Epping Forest District Local Plan Alterations 2006 and paragraph 89 of the National Planning Policy Framework and amount to the very special circumstances needed to outweigh the presumption against inappropriate development and the additional harm caused to Green Belt openness.

Conditions

40. In addition to those conditions already discussed in preceding paragraphs, a number of others have been suggested, should planning permission be granted for the applications. As the development has already commenced there is no need to attach the standard time limit condition for this but I will impose conditions to limit working hours on the site, including the use of the crusher.

41. When imposing conditions to limit the noise levels on site, I shall also include retention of the measures that have already been employed and ensure that the location of the crusher is restricted to the Marlow site, to protect the living conditions of occupiers of neighbouring properties.

42. Part of the package of benefits offered by the appellant includes the resurfacing of the access way and parking areas and the provision of wheelwashing facilities to prevent mud and debris being deposited on the highway, and the provision of loading/unloading areas and turning areas. These provisions, and the prevention of any other uses in these areas, will also be secured through a condition, in the interests of highway safety.

43. As noted above, the landscaping of the appeal sites and the land outside their boundaries, where it is in the ownership of the appellant, will be needed to ensure that the waste recycling business is acceptable in terms of its visibility in the countryside. The suggested condition limiting the use of the manège area to storage and parking is not required as it is only this use for which planning permission is to be granted.

Appeals A and B - grounds (f) and (g)

44. Planning permission is to be granted retrospectively for Appeals C and D and as the use has already commenced, this will, in the case of Appeal B, effectively override the enforcement notice. In respect of Appeal A, there will still be a strip of land, 10m wide, to which the enforcement notice applies. Although the appellant has suggested that lesser steps could render the use on this land acceptable, he has not indicated what these should be.

45. In any event, the land in question has been cleared of items related to the waste re-cycling business and, at the time of the site visit, was not being used for this purpose. Although vegetation has also been removed, this was not a matter covered by the enforcement notice and all that can be required is the land to be kept in an open condition and not used for the business. Therefore the enforcement notice has effectively been complied with. Similarly, there is no need to extend the time period for compliance with the notice, as this has already been done. The enforcement notices will not therefore be amended and the appeals on grounds (f) and (g) fail.

Conclusions

46. For the reasons given above, I find that that Appeal A should succeed on ground (d) in respect of a 5m wide strip of land adjacent to the Marlow land and an amended plan will be substituted for that originally attached to the enforcement notice. I will also remove the references to crushing and screening as it has been agreed that this was not occurring on the land at the time the notice was issued. Appeal B fails but the enforcement notice to which it relates will be superseded by the planning permission that will be granted under Appeal D.

47. Appeal C also succeeds in part and planning permission will be granted, with conditions, for the waste recycling business on a 10m wide strip of land on the border with Marlow on the Esperanza land. However, the processes of crushing and screening will not be permitted on this area.

Katie Peerless

Inspector

APPEARANCES

FOR THE APPELLANT:

Scott Lyness	Of Counsel, instructed by J Lovatt, Solicitor for appellant
He called	
Timothy Evans	Appellant
Nichola Sullivan	Witness for appellant
Darren Griffith	Witness for appellant
Stephen Parker	Witness for appellant
Justin Burling	Witness for appellant
Christopher Johnston-Ward BSc MIOA	Noise consultant
Trevor Dodkins BSc (Hons) DipTP MRTPI	Phase 2 Planning & Development Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson	Of Counsel instructed by Epping Forest District Council
He called	
Richard Thomason Dip Acoustics & Noise Control (Institute of Acoustics)	Environment and Neighbourhoods Officer, Epping Forest District Council
Jeremy Godden MRTPI	Principal Planning Officer, Epping Forest District Council

INTERESTED PERSONS:

Barbara Waters	Local resident
Cllr. Baden Clegg	Ward Councillor
Claire Clegg	Local resident
Andrew MacPherson	Local resident
Alan Cherry	Local resident
Susan de Luca	Clerk to Parish Council

DOCUMENTS

1 Letter of notification and circulation list
2 Letter from (local Councillor)
3 Statement of Common Ground
4 Notes of Mr Lyness' opening statement
5 Notes of Mrs Clegg's statement
6 Letter from Ms de Luca
7 Notes of Mr Cherry's statement
8 Notes of Mr McPherson's statement
9 Notes of Mrs Waters' statement
10 Notes of Cllr. Clegg's opening statement
11 Revised list of suggested conditions
12 Notes of Mr Atkinson's closing submissions
13 Notes of Mr Lyness' closing submissions
14 Copy of TPO for Esperanza land

PLANS

A	Location of Mr Evans' photographs
B	Amended page 35 of Mr Evans' appendices showing Marlow boundary

PHOTOGRAPHS

1	Enlarged version of Mr Dodkins' Appendix 7
Photo set 2	Scaled aerial photographs from 2002, 2007 and 2009

Annex A
Conditions to be attached to planning permissions EPF/0868/13 and EPF/0877/13

1) The use hereby permitted shall not operate outside the following times: 0630 – 1700 Monday to Friday and 0630 – 1300 on Saturday and not at all on Sundays or Bank Holidays, with the exception of the parking of vehicles.

2) Notwithstanding condition 1 above, the concrete crusher shall not operate or be loaded outside the hours of 0900 – 1700 Monday to Friday and 0900 – 1300 on Saturday and not at all on Sundays or Bank Holidays.

3) No development hereby approved shall take place until and unless the following Retained Noise Control Measures have been implemented and maintained, in accordance with the approved 'Specific Noise Measurements and Noise Limits For Crusher Operations at Marlow, Thornwood Common, Epping 140014: Crusher Noise Limits Rev 2' dated 5 August 2014 or as otherwise agreed in writing with the Local Planning Authority:

(a) The secondary silencer currently fitted to the engine exhaust is to be retained and maintained in good condition or replaced with an equivalent silencer.

(b) The acoustic screens currently located in front of the engine air vents are to be retained and maintained in good order or replaced with equivalent screens.

(c) The spoil heap to the north of the crusher which currently acts as a noise barrier is to be maintained at a height of not less than 5 metres and shall extend to a minimum distance of 5 metres from the rear end of the crusher and shall extend to a minimum distance level with the end of the conveyor at the front of the crusher.

(d) The base of the spoil heap to the north of the crusher which currently acts as a noise barrier shall, in addition to the minimum dimensions detailed in 3 above, be no further than 5 metres from the crusher.

(e) Regardless of the position or location of the crusher, the relationship of the positioning, height and length of the spoil heap/noise barrier to the crusher shall be maintained when crushing operations are carried out.

(f) There shall be no distinct features, as described in BS4142:1997, associated with noise emission from the crushing operations, including a distinguishable, discrete, continuous note or distinct impulses.

(g) The limits set out in (a) to (f) above shall apply to all future crushing operations on the Marlow site irrespective of the make, design or size of the existing crusher or any replacement crushers.

4) The location of any concrete crushing machinery shall be limited to the Marlow site area as defined in blue on Plan B attached to this Decision (reference C13032-Conditions), and not within the Esperanza area marked in green.

5) Within 3 months of the date of this Decision details of:

(a) the parking areas and the surfacing thereof;

(b) the provision of loading/unloading areas;

(c) provision of turning space;

(d) provision of wheel washing facilities

shall be submitted to and approved in writing by the local planning authority. The details shall include a timetable for implementation. The measures are to be implemented as approved in accordance with the timetable and thereafter retained. The parking/loading/unloading areas and turning space shall not be used for any other purpose.

6) Within 3 months of the date of this Decision, a landscaping scheme showing the treatment of all parts of the site not to be used for the waste recycling business, including the boundary treatments on both the Marlow and Esperanza land, is to be submitted to the local planning authority for approval. The scheme is to include details of trees and shrubs to be planted and a timetable for implementation. The approved scheme is to be implemented in accordance with the timetable therein and all planted material shall be maintained for a period of not less than 5 years from the date of planting. Any plants that die, are removed or become seriously diseased during this period shall be replaced in the next available planting season in accordance with the approved scheme.

Plan A

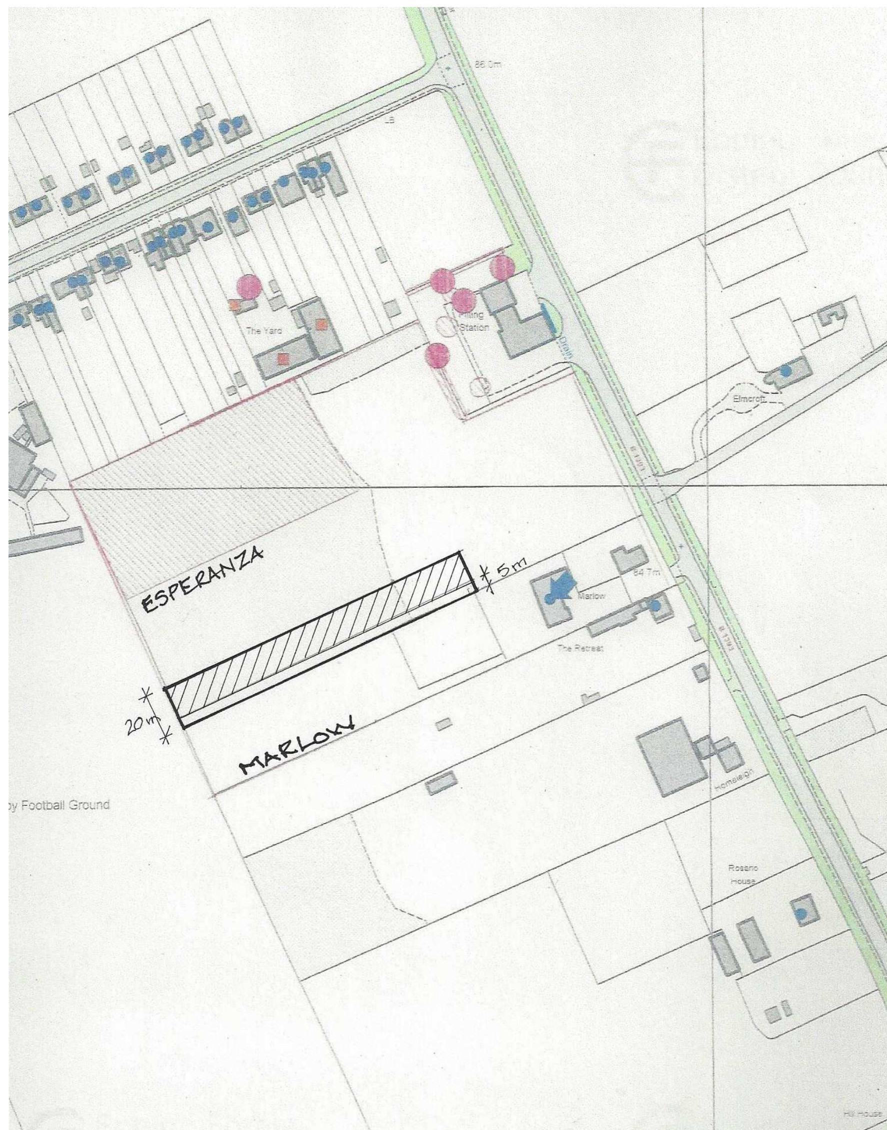
This is the plan referred to in my decision dated: 21.10.2014

by Katie Peerless Dip Arch RIBA

Land at: Marlow, High Road, Thornwood, Epping CM16 6LU

Reference: APP/J1535/C/13/2209407

Scale: NTS



The area hatched black adjacent to the Marlow land is the area to which the enforcement notice applies

The Planning Inspectorate

Plan B

This is the plan referred to in my decision dated: 21.10.2014

by Katie Peerless Dip Arch RIBA

Land at: Marlow, High Road, Thornwood, Epping CM16 6LU

Reference: APP/J1535/A/13/2206035 & APP/J1535/A/13/2209276

Scale: NTS

The Planning Inspectorate

Appeal Decision

Site visit made on 16 December 2014

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 22 January 2015

Appeal Ref: APP/J1535/A/14/2227111
134 High Street, Epping, Essex

- 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 Alan Poulton (A. J. Poulton (Epping) Ltd) against the decision of Epping Forest District Council.
- The application Ref EPF/1093/14, dated 10 May 2014, was refused by notice dated 20 August 2014.
- The development proposed is a change of use to A2.

Decision

1. The appeal is allowed and planning permission is granted for a change of use to A2 at 134 High Street, Epping, Essex in accordance with the terms of the application, Ref EPF/1093/14, dated 10 May 2014, subject to the following condition:

   1. The development hereby permitted shall begin not later than 3 years from the date of this permission

Main Issues

2. The main issues are whether the proposal would result in (a) the loss of a community facility and (b) should a Class A1 retail use be reinstated in the interests of the viability and vitality of the retail centre.

Reasons

Background

3. The appeal site comprises a unit on the south east side of Epping High Street close to its junction with Station Road. The unit is currently in Class D1 use as a drop in centre for young people, including counselling and advice services. The shopping area for Epping is mainly focussed on the High Street and is extensive in length along both sides of the road with few vacant units. Either side of the appeal unit, there is a funeral directors (Class A1) and Estate Agent (Class A2).

4. Change of use of the existing unit from a shop (A1) to the use as a drop in centre for young people was granted in March 2011. A further permission for the alteration of the unit's shop front, following sub division, to form two A1 shops was granted in March 2013.

Community facility

5. Policy CF12 of the Epping Forest District Local Plan Alterations (LPALT) 2006 states planning permission will only be granted for proposals which entail the loss of a community facility where it is conclusively shown that two criteria are met. The first criterion is that the facility is either no longer needed or no longer viable in its current location and the second criterion is that the facility/service, if it is still needed, is already or is to be, provided elsewhere and accessible within the locality to existing and potential users.

6. There are to be new premises for the drop in centre at a former church hall within 150m of the High Street which the appellant indicates has the advantages of being closer to a public car park and cheaper rent. Enclosed documentation with the appeal indicates that the lease of the appeal premises at 134 High Street was to be extended to permit the current drop in centre use to continue whilst the new premises were being fully refurbished ready for the new term in January 2015.

7. No specific correspondence has been received from the drop in centre user to show that the new premises have been secured. However, there is significant reassurance provided from the documentation regarding the new premises which is explicitly stated to be open for use in January 2015 and I have no reason to doubt this. Furthermore, if there had been difficulties with securing alternative premises, I would have expected some comments from customers with an interest in the drop in centre to have reported this.

8. The existing use would no longer be present on the High Street but the relocated premises are to be close by, near to a public car park. The new location would also ensure that that the community facility would not be lost to the town. On this basis, I find that the evidence is compelling in showing that facility is no longer needed in its current location given the availability of alternative premises and the accessibility of these premises to existing and potential users.

9. Paragraph 70 of the National Planning Policy Framework (the Framework) states planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Nevertheless, for the reasons already referred to, there would be no loss of a community facility in the locality and thus there would be no conflict with paragraph 70 of the Framework.

10. The Town Council refer to the conflict of the proposal with Policies CF6 and CF12 of the adopted Local Plan and Alterations. Although I have not been supplied with a copy of Policy CF6, the reference to it is made within the context of the loss of a community facility which for the reasons stated has not been lost based on the evidence before me.

11. In summary, the proposal would comply with LPALT Policy CF12 and paragraph 70 of the Framework because there would be no loss of a community facility and satisfactory alternative provision would be provided for the reasons stated.

Retail use

12. LPALT Policy TC4 states that the Council will grant planning permission for new non-retail uses at ground floor level within a key retail frontage provided that it would not result in the non-retail frontage exceeding 30% and more than two

adjacent non-retail uses, regardless of shop frontage width. The proposal would result in a change of use of the existing D1 use to A2 use but this would not result in a new non-retail use as the existing D1 use is already non-retail. Therefore, there would be no conflict with LPALT Policy TC4.

13. The circumstances behind the original 2011 planning permission for the existing D1 user have been highlighted. It was granted on the premise that the loss of the previous A1 use was only justified because of the valuable community work undertaken by the current occupants and that on cessation, the A1 use would revert to the unit. It has therefore been put to me that local retail policies should apply given the original circumstances of the permission. However, there is no policy provision within LPALT Policy TC4 to justify such an approach and no other local retail policies have been highlighted to me other than this policy. Furthermore, no confirmation has been provided to show me that this existing permission has a mechanism to ensure that A1 retail use would revert, once the D1 use ceased.

14. Moreover, the existing D1 use is now an existing element in the shopping area and forms part of the context of the appeal proposal and consequently is of far greater significance in my deliberations. The Council have referred to a strong retail element being traditionally seen as a vital element to a healthy town centre and one which has vitality and viability. It also pointed out that Councils are justified in making decisions which promote the retail element of town centre key frontages. However, for the reasons indicated, there will be no loss of retail use and there is no information before me to indicate that the contribution of the proposed use to the vitality and viability of the retail centre would be less than the current use.

15. Mention has been made of the changes to permitted development regulations which enable movement between various use classes without the need for planning permission. Although this could result in loss of an A1 use under certain circumstances, these changes are for a limited period only. As a result, this consideration has been of limited weight in my assessment of the proposal.

16. In summary, there would be no justification to turn down this proposal on the basis that a retail use should be reinstated and there would be no conflict with LPALT Policy TC4.

Other matters

17. As the site is within the Epping Conservation Area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. There would be no external changes proposed and the proposed use would still maintain pedestrian contact and activity, a feature of the Conservation Area. For these reasons, the proposal would preserve the character and appearance of the Conservation Area. Such a view is supported by the lack of Council objection on this matter.

18. Concerns have been expressed about the termination of a lease of a long standing and good tenant at No 134. However, this is matter between the existing user and the landlord, and in any case, other alternative premises are to open in 2015 as previously indicated based in the evidence before me. Further comments have been made about the lack of need for another A2

facility and the impact on business but I cannot attach any significant weight to these matters as they relate mainly to competition and not planning matters. Thus, they do not outweigh my favourable conclusions on this appeal proposal.

Conditions

19. Planning conditions have been considered in light of advice contained in Planning Practice Guidance. The Council have recommended a time commencement conditions which I have imposed. There is no requirement for further conditions given the nature of the proposal.

Conclusion

20. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Appeal Decision

Site visit made on 16 January 2015

by David Fitzsimon MRTPI

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

Decision date: 9 February 2015

Appeal Ref: APP/J1535/A/14/2218652
44 Hoe Lane, Abridge, Romford, Essex RM4 1AU

- 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 Matthew Phillips against the decision of Epping Forest District Council.
- The application Ref EPF/2322/13, dated 1 November 2013, was refused by notice dated 12 February 2014.
- The development proposed is the 'demolition of existing dwelling and replacement dwelling'.

Application for Costs

1. An application for costs was made by the appellant against the Council which is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and replacement dwelling at 44 Hoe Lane, Abridge, Romford, Essex RM4 1AU in accordance with the terms of the application, Ref EPF/2322/13, dated 1 November 2013, subject to the conditions contained within the attached Schedule.

Main Issue

3. The main issue in this case is the effect of the proposed replacement dwelling on the living conditions of the occupiers of No. 46 Hoe Lane with particular regard to outlook and access to natural light.

Reasons

4. The proposal seeks to replace an existing bungalow with a much larger house. The Council has no concerns regarding the appearance of the house and given the variety of dwelling styles found locally, I see no reason to disagree.

5. The Council does, however, have concerns regarding the impact of the proposed house on the occupiers of the adjacent bungalow, No. 46 Hoe Lane. The existing bungalow which sits on the appeal site has a 'reverse P' shape footprint. Although its main section sits forward of the adjacent bungalow, No.

46 Hoe Lane, this element is set well off the common boundary. The section nearest to No. 46 sits slightly behind the main front elevation of this bungalow.

6. The proposed house would sit slightly further forward on the plot than the main body of the existing bungalow. Its main two storey section would span almost the full width of the plot, but the section along the common boundary, which would project beyond the front elevation of No. 46, would be single storey.

7. This single storey section would project much further forward than the nearest section of the existing bungalow which sits on the appeal site. Nevertheless, the adjacent bungalow is, and the proposed dwelling would be, set off the common boundary and I understand that the windows on the affected side elevation of No. 46 do not serve habitable rooms. Further, a car port and tiled open porch area cover the main entrance to No. 46 and they already restrict the levels of natural light available to this part of the property along with the outlook from it. In addition, the nearest window on the front elevation of No. 46 which appears to serve a habitable room would be some distance from the closest part of the single storey section at the front of the proposed house, which would also sit at a lower ground level.

8. I recognise that the proposed house would be much taller than the existing bungalow. Nevertheless, given the arrangement explained above, I am satisfied that it would not unduly harm the outlook for the occupiers of No. 46 Hoe Lane or unacceptably reduce the levels of natural light available to them. In this respect, there would be no conflict with saved policy DBE9 of the adopted Epping Forest District Local Plan.

Conditions

9. In addition to the standard conditions which limit the lifespan of the planning permission and direct that the development takes place in accordance with the approved plans, the Council has suggested several conditions in the event the appeal succeeds.

10. I agree that the first floor windows on the side elevation facing No. 42 Hoe Lane should be fitted with obscured glazing and have restricted opening in order to safeguard adequate levels of privacy for the occupiers of this neighbouring dwelling. It is not necessary, however, for the glazing in the door shown on this elevation to be fitted with obscured glazing as it is at ground floor level. I also agree that the flat roof sections of the single storey elements of the dwelling should not be used as balconies, whilst the Juliet balconies shown on the drawings should be fitted in order to safeguard privacy. The Council has suggested that permitted development rights should be removed so that future extensions can be controlled, but no exceptional reasons have been given to justify this. I do agree, however, that roof enlargements and alterations should be strictly controlled in order to ensure that the attractive roof form of the dwelling is safeguarded.

11. In allowing the appeal, I shall impose conditions accordingly.

David Fitzsimon

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 carried out in accordance with the following approved plans:

   13-001/02 Rev A, 13-001/03 Rev A, 13-001/04 Rev A, 13-001/05 Rev A and 13-001/06 Rev A.
3) The first floor windows to the side elevation of the dwelling hereby permitted which faces No. 42 Hoe Lane shall be fitted with obscured glazing and shall have fixed frames to a height of 1.7 metres measured from the floor level of the room which they serve in accordance with details first submitted to and approved in writing by the local planning authority. The windows shall be installed in accordance with the approved details before the dwelling is first occupied and they shall be retained in that condition thereafter.
4) No enclosure or balcony shall be formed on the single storey roofs of the dwelling hereby permitted. Access to these roofs shall be for maintenance purposes and for emergency means of escape only and they shall not be used as balconies at any time.
5) The dwelling hereby approved shall not be occupied until the Juliet balconies indicated on drawing numbers 13-001/02 Rev A and 13-001/03 Rev A have been fitted to the windows they are shown to enclose. The Juliet balconies shall be retained in the approved positions thereafter.
6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any other Order revoking, further amending or re-enacting that Order, no additions to, or enlargements of, the roof of the dwelling hereby permitted shall take place without planning permission first being granted by the local planning authority.

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The Planning Inspectorate

Appeal Decision

Site visit made on 16 December 2014

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 19 January 2015

Appeal Ref: APP/J1535/A/14/2227003
T B Lawn Tennis Club, Sidney Road, Theydon Bois, Epping CM16 7DT

- 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 Breedon (Theydon Bois lawn Tennis Club) against the decision of Epping Forest District Council.
- The application Ref EPF/2610/13, dated 7 December 2013, was refused by notice dated 9 April 2014.
- The development proposed is the installation of lights to Court 3 incorporating a total of 4 Columns and 4 Lamps.

Decision

1. The appeal is allowed and planning permission is granted for the installation of lights to Court 3 Incorporating total of 4 Columns and 4 Lamps at T B Lawn Tennis Club, Sidney Road, Theydon Bois, Epping CM16 7DT in accordance with the terms of the application, Ref EPF/2610/13, dated 7 December 2013, subject to the following conditions on the attached schedule.

Main Issues

2. The site is within the Green Belt and so the main issues are:

    - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan; and
    - The effect of the proposal on the character and appearance of the area;
    - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, having regard to outlook, light intrusion, noise and disturbance;
    - The effect of the proposal on car parking and highway safety.

Reasons

Inappropriate development

3. Paragraph 89 of National Planning Policy Framework (the Framework) establishes that certain forms of development are not inappropriate in the Green Belt. This includes the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries provided they preserve the

openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.

4. Policy GB2A of the Epping Forest District Local Plan Alterations (LPALT) 2006 states planning permission will not be granted for new buildings or the change of use or extension of existing buildings in the Green Belt unless it is appropriate in that it is for specific type of development. One type of development is for the purposes of outdoor participatory sport and recreation.

5. The proposal would result in the erection of four columns each with a lamp in the four corners of an existing tennis court. This would enable the use of the courts for three nights of a week till 2130 hours. Given that the columns and lamps serve an existing facility and would be small in physical extent, there would be no impact on the openness of the Green Belt or conflict with any of the purposes of including land within the Green Belt. Furthermore both the Council and the appellant do not dispute that the development falls within the definition of acceptable development in the Green Belt under paragraph 89 of the Framework and LPALT Policy GB2A.

6. For these reasons, the proposal would not be inappropriate development as set out in the Framework and development plan.

Character and appearance

7. The tennis club has six hard surfaced tennis courts along with a clubhouse and a car parking area at the end of Sidney Road. The site is partially elevated above the gardens of neighbouring properties in Coppice Row to the north. To the east of the tennis club, there is a cricket club and associated grounds. There is an absence of street lighting within the surrounding area.

8. The proposed columns, with attached lamps, would be 7m high and would be located within Court 3. Court 3 is sited centrally within the site behind the car park area and adjacent to the cricket club. Given the high fences surrounding the courts and scale of development surrounding the tennis club, the columns would not be incongruous within the locality.

9. With regard to the illumination of the lamps, there would be a down lit area created between the lamps and hard surface of the tennis court. The surrounding area is largely characterised by darkness at night because of the general absence of street lights. The Theydon Bois Village Design Statement (VDS) refers to a dark skies policy with a high proportion of participants in a survey agreeing with such a policy. The VDS has not gone through the formal consultation processes of a Development Plan Document but I have attached some weight to the policy given its specific relevance to lighting.

10. The policy indicates that all forms of exterior lighting can, if badly angled cause two broad types of problem, namely light pollution and light nuisance. Reference has been made to the policy resisting external bright lights/high level lighting but this is under guidance notes and does not prohibit additional lighting altogether. Indeed, other policy guidance notes suggest appropriately designed lighting can be acceptable where it encourages lighting that is correctly adjusted so that light overspill onto neighbouring property is prevented and light emission above the horizontal is discouraged. On this basis, the policy is not intended to resist all new lighting within the village but rather to minimise their impact and resist inappropriate designed lighting.

11. The appellant has submitted lighting details which indicate that the lamp fitting would be designed with an asymmetric reflector and the lamps would have low aiming angles above the horizontal plane. An ISO surface illuminance (lux) contour overview plan shows that light overspill would reduce significantly in extent beyond the court and its immediate confines. The appellant has also indicated that the court would also only be used for three nights of the week up to 9.30pm. On this basis, the proposal would not result in excessive sky glow, light glare and horizontal light spillage conflicting with the dark skies policy contained within the VDS.
12. Mention has been made of light bouncing off the ground in all directions and low cloud, along with moisture in spring and autumn, increasing the visual impact of light pollution. However, for the reasons indicated, light spillage and pollution would not be significant given the design of the lighting scheme. In this regard, assurance is provided by the supporting specification for the lighting scheme produced by Ayrlect Associates and Luminance Pro Lighting Systems Ltd which has been devised to address key issues of sky glow, glare and horizontal light spillage.
13. The lamps and their down lit illumination would be visible from surrounding public vantage points in Sidney Road and Coppice Row. Nevertheless, the visual impact would be limited by the siting of Court 3 behind other non-illuminated courts and the car park area from Sidney Road. In relation to the roadside footway along Coppice Row, views would also be distant despite the raised ground nature of the tennis courts. For similar reasons, views of the illuminated court from other public roads and areas would not be overly intrusive.
14. For these reasons, the development would not be harmful to the character and appearance of the surrounding area. Accordingly, the proposal would comply with Policies CP2 and GB7A of LPALT and DBE2 of the Epping Forest Local Plan (LP) which collectively and amongst other matters, require the safeguarding and enhancing of setting, character and townscape of the urban environment and the prevention of conspicuous development within the Green Belt.

Living conditions

15. At the end of Sidney Road, there are two properties either side of a turning area which are adjacent to the tennis club site. There is a first floor bedroom window within the flank of property known as Bushwood and a greater number of windows on the flank of a property known as Wedgewood. Representations have highlighted that some of the windows on these dwellings serve bedrooms.
16. During times of operation, the illuminated lamps and down lit areas would be noticeable from the windows of these properties. However, the degree of visual intrusion would be limited by the distance of the lamps and down lit areas from the windows of these properties and the limited operating times of the lamps. In the case of Bushwood, the property would be separated by the existing car parking area and clubhouse whilst Wedgewood would be separated by other tennis courts. The ISO surface illuminance (lux) contour overview plan further shows light overspill only affecting Bushwood to a very limited degree.
17. There are further residential properties along Coppice Row which back onto the tennis club with living, kitchen and bedroom windows. The ground levels of the

dwellings and gardens of these properties are lower in height than the tennis club site. Nevertheless, the illuminated court number 3 would be some distance from the dwellings themselves because of the depth of their gardens and the existence of other non-illuminated tennis courts sited in between. Additionally, many of the properties are further separated by the cricket grounds. In the case of the gardens of these properties, the illuminated tennis court would still be separated by other non-illuminated tennis court areas and again in case of many properties, the cricket grounds. Even in winter, this degree of separation would be quite sufficient to reduce light glare and illumination when deciduous vegetation provides less screening cover.

18. Reference has been made to ugly shadows that the lighted columns would cast over the surrounding area. However, these areas would be some distance away from properties in neighbouring streets for the reasons previously stated. Noise and disturbance arising from the comings and goings of traffic as well as from players using the tennis court has been referred to. However, the additional traffic generation arising from this proposal for the increased use of one tennis court would be not significant. Noise and disturbance from the players on one tennis court would also be unlikely to be significant for similar reasons.

19. For these reasons, the development would not harm the living conditions of residents by reason of the loss of outlook, light intrusion, noise and disturbance. Accordingly, the proposal would comply with Policies CP2 and GB7A of the LPALT and DBE2 of the LP, which collectively and amongst other matters, indicate that planning permission will not granted for development that has a detrimental effect on neighbouring properties in amenity terms.

Parking and highway safety

20. There is a private car park located off Sidney Road which serves the tennis club. There are no marked bays within it and there is a difference in opinion over its capacity ranging from 10 to 15 parking spaces.

21. Nevertheless, the effect of granting planning permission would be to extend hours of playing tennis on one court into the evening at times when other courts would be difficult to play on due to poor light. Therefore, the level of car parking required for members would be considerably less, when the lighting is on, than during the daytime when all the tennis courts are available for use. In this regard, the appellant indicates that Court 3, when illuminated, would serve at most 4 adults and at other times 10 juniors at any one time which would be a reasonable estimate of the level of use for one court. Consequently, the car park would be adequate to serve the needs of members making use of the lighted court even taking into account the lower capacity of 10 car parking spaces.

22. Residents have pointed to considerable problems with inconsiderate parking along Sidney Road. Some tennis club members park along this road especially when tournaments are held, to allow visiting players to park at the club car park. However, as has been pointed out, commuters park along this road and there is no evidence that the car parking issues are caused by the tennis club members. In any case, the car park is adequate in size to serve the nighttime use of one court for the reasons previously referred to.

23. For these reasons, the development would not result in unacceptable on-street car parking, reversing and manoeuvring of vehicles which would cause a significant highway safety risk. Accordingly, the proposal would comply with Policies ST4 and ST6 of the LPALT and DBE2 of the LP, which collectively and amongst other matters, require adequate car parking in accordance with relevant standards and for new development not to be detrimental to highway safety.

Other matters

24. The Loughton Astronomical Society meet at the Scout hut beyond the cricket ground to the east of the tennis club site. They have a children's section that meets early evenings on a Friday and their activities are sensitive to scattered light and pollution. However, the lighting would be designed to minimise light pollution and the tennis club are only requesting use of one illuminated court for three nights. Taking these considerations into account, the local astronomical society activities would not be disproportionately affected.

25. A previous proposal for lighting of 3 tennis courts at the site was dismissed in 2005 (APP/J1535/A/05/1172277) where the Inspector referred to the looming presence of the lighting against a dark sky. However, this previous proposal was far greater in terms of columns, lamps and average Lux light value. Other appeal decisions have been referred to at Lindow Lawn Tennis Club, Wilmslow, Cheshire (APP/R0660/A/13/2198344) and at Wychwood Golf Club, Lyneham, Chipping Norton, Oxfordshire (APP/D3125/A/12/2178746). However, these proposals similarly concern a greater number of floodlit courts as well as being in different surroundings and consequently, there are sufficient reasons to distinguish these previous appeal proposals from that considered here. In any case, every application or appeal must be determined on its individual planning merits.

26. Representations have been about Epping Forest Deer Park which has been indicated to be a Site of Special Scientific Interest and Special Area of Conservation to which European Habitat Directives apply. Reference has been made to bats and deer within these areas. However, there are no objections from any recognised ecological body. I am satisfied the proposal would be a good distance away from such areas and there would be no harm to the species referred to given the small scale nature of the proposal.

27. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. Another application was submitted at the same time as the current proposal for the erection of 8 columns in two courts. However each application and appeal must be considered on its individual merits and a generalised concern of this nature does not justify withholding permission in this case. Conflict with the Clean Neighbourhoods and Environment Act 2005 has been cited but this is a separate legal matter and has not formed part of my deliberations.

Conditions

28. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance (PPG); for clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.

29. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. Within this condition, reference has also been made to the lighting design of the proposal produced by the appellant's lighting engineers because this is an integral part of the scheme. In the interests of the character and appearance of the area and the living conditions of residents, conditions have been imposed regarding lighting levels and operating times. For the sake of precision, I have worded the condition to ensure lamps are switched off at appropriate times when it is generally dark.

Conclusion

30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Attached conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 214-PL-01 rev A; 214-PL-2 and the lighting design contained within the Luminance Pro Lighting Systems Ltd document titled "Theydon Bois Tennis Club Outdoor Tennis Lighting Design" dated 18 June 2013.
3. The lux levels of the lamps to be fitted to the 4 columns shall not exceed the value of 300.
4. The lamps hereby permitted shall only be used for three days per week (Monday to Sunday) and shall not be used between 2130 hours and 0800 hours.

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