

Application Number: 2014/0306

Location: Catfoot Squash Club, Catfoot Lane, Lambley.



NOTE:

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Report to Planning Committee

Application Number: 2014/0306

Location: Catfoot Squash Club, Catfoot Lane, Lambley.

Proposal: Demolition of existing squash club and workshop and construction of new 4 bedroom dwelling and domestic curtilage.

Applicant: Ms J. Bilton

Agent: Mr Christian Yorke

Site Description

The application site relates to a former squash club buildings and land situated off Catfoot Lane, Lambley. The existing buildings are two storey and single storey in height. The premises are currently vacant. There is an existing access to the premises from Catfoot Lane. There is a residential property adjacent to the application site. The site is situated within the Green Belt for Nottingham.

Relevant Planning History

Planning permission was granted in July 2012, ref. 2012/0664, for the conversion and change of use of the former private squash club and workshop to a single dwelling.

Planning permission was granted in December 2012, ref. 2012/1185, for the conversion and change of use of the former private squash club and workshop to a single dwelling.

The above applications were considered appropriate development in terms of the actual change of use of the buildings from a former leisure use to residential use. However, applying the correct interpretation of the Fordent case the proposed use of the land surrounding the buildings constituted a change of use and should have been considered as inappropriate development in the Green Belt. Therefore applying the correct interpretation of Fordent very special circumstances should have been demonstrated in order to justify the use of the land for residential purposes and outweigh any potential harm to the Green Belt, and the applications should have been advertised as a departure to the local plan.

However, the timeframe for challenging these decisions has lapsed and the decisions remain as valid and therefore these permissions are extant.

Proposed Development

Full planning permission is sought for the demolition of the existing squash club and workshop on the site and the erection of a four bedroom dwelling on the site. The dwelling would be constructed over various levels providing a lower second floor, a lower first floor, a lower ground floor, a ground floor and a first floor.

The overall footprint of the building would be 158 square metres and would provide an overall floor area of 258.85 square metres.

A detached double garage is also proposed to be provided which would measure 7 metres by 7.6 metres with an overall height of 3.8 metres.

Access to the site would be via the existing access to the site.

A curtilage area would be provided to serve the proposed dwelling, allowing for a driveway area to the front of the garage and a small side and rear garden area.

Consultations

Lambley Parish Council – object to the proposal on the grounds that it is out of keeping with the area.

NCC Highway Authority – The proposal has been submitted with a new access point from the previous proposal. The visibility to the access can only be achieved by lowering the front wall. The boundary wall therefore should be no higher than 0.6m in height to achieve the visibility. The following conditions and note to the applicant are therefore recommended:

1. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4 x 43m are provided in accordance with details to be first submitted and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.
2. No part of the development hereby permitted shall be brought into use until a vehicular verge crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.
3. No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as verge in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.
4. No part of the development hereby permitted shall be brought into use until all drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 5.5 metres behind the Highway boundary.

The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

5. Pedestrian visibility splays of 2.0 metres x 2.0 metres shall be provided on each side of the vehicle access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6 metres above the carriageway level at all times.
6. No part of the development hereby permitted shall be brought into use until the access driveway / parking / turning area (s) is constructed with provision to prevent the unregulated discharge of surface water from the driveway/parking/turning area(s) to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Note to applicant

The proposal makes it necessary to construct a vehicular verge crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Customer Services to arrange for these works on telephone 0300 500 80 80.

Nottinghamshire Wildlife Trust – following the receipt of a protected species survey no objections are raised but require a note to be attached to any grant of planning permission advising the applicant of their legal rights should any bats be found at the site during development.

Local residents have been notified by letter, a site notice has been posted and the application has been advertised in the local press advertising the proposal as a departure from the Replacement Local Plan – No comments have been received at the time of writing. The Statutory consultation period for representations is until 29th July 2014 and any consultation responses will be reported verbally at Committee.

Planning Considerations

The main considerations in the determination of this planning application are whether the proposal accords with Green Belt policy, the impact of the proposal on the open character of the Green Belt, the suitability of the design of the dwelling, the impact on neighbouring properties and the area in general and whether there are any highway safety implications arising from the proposal. The impact of the proposal on possible protected species at the site will also need to be assessed.

At a national level the National Planning Policy Framework 2012, is relevant and states, at paragraph 89:

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

At a local level Policy ENV26 (Control over Development in the Green Belt) of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) states: -

'Within the Green Belt, as defined on the Proposals Map, planning permission will be granted for appropriate development, including: -

- a) that which is required for the purposes of agriculture or forestry;
- b) the provision of outdoor sport and recreation facilities and the erection of essential new buildings in association with them;
- c) for cemeteries;
- d) changes of use of agriculture and other buildings to employment and tourism uses which help to diversify the rural economy.

In all cases appropriate development must be located and designed so as not to harm the openness of the Green Belt or the purpose of including land within it.'

Policy ENV29 (Replacement Dwellings in the Green Belt) of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) states;

'Within the Green Belt planning permission for the replacement of existing dwellings that have not been substantially extended will only be granted where the new dwelling is not materially larger than the existing dwelling.

Where a dwelling has been substantially extended, a replacement dwelling will only be granted where the new dwelling has the same or reduced floorspace than the existing dwelling it is to replace.

In all cases, permission will only be granted where the height, bulk, scale and positioning does not adversely affect the openness of the Green Belt or the purpose of including land within it.'

Policy H16 (Design of Residential Development) of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) states:

'Planning permission will be granted for new residential development if the following design criteria are met:

- a. dwellings should be sited and designed to relate to each other and to the roads, footpaths and open spaces in the surrounding layout;
- b. the proposals are of a high standard of design which has regard to the

surroundings and does not adversely affect the area by reason of their scale, bulk, form, layout or materials;

In addition Policy ENV1, (Development Criteria), of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) is also relevant and states:

'Planning permission will be granted for development provided it is in accordance with other Local Plan policies and the proposals meet the following criteria:-

- a. it is of a high standard of design which has regard to the appearance of the area and does not adversely affect the area by reason of its scale, bulk, form, layout or materials;
- b. it would not have a significant adverse effect on the amenities of adjoining occupiers or the locality in general, by reason of the level of activities on the site or the level of traffic generated;
- c. development proposals are to include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles. In this regard, particular attention will be paid to the needs of disabled people, cyclists, pedestrians and people with young children;

The proposal as submitted constitutes a departure to the Replacement Local Plan as it does not accord with the policies and guidance as set out above. The proposal is for the replacement of the existing squash club buildings on the site with a dwelling within the Green Belt and therefore the use of the existing buildings on the site do not fall within the same use class as the proposed dwelling. The proposal therefore is inappropriate development within the Green Belt and therefore very special circumstances are required to be demonstrated in order to justify the development and outweigh any potential harm to the Green Belt.

Whilst I appreciate that the proposal is inappropriate development and therefore a departure to the Replacement Local Plan, I consider that there are very special circumstances in this instance to justify the proposal, as follows.

I am mindful that planning permission was previously granted in 2012 for the conversion of the existing squash club buildings to residential accommodation in the form of a new independent dwelling and as stated above these permissions remain extant. Whilst these works have not been implemented on site, the principle of residential development on the site has, in my opinion, been established.

Had the permission for the conversion of the existing buildings on the site been implemented, the works completed and the dwelling occupied, I am mindful that a planning application could be submitted for the demolition of what would now be termed as a dwelling on the site and for the erection of a replacement dwelling. A proposal such as this would, in principle, accord with Policy ENV29 of the Replacement Local Plan and indeed the guidance as set out above.

I therefore consider that if the conversion of the buildings had been implemented

under one of the previous permissions and the building occupied residentially, in my opinion planning permission would be likely, in principle, to be forthcoming for a replacement dwelling on the site. I consider that it would be unreasonable to expect an applicant to follow the accepted approach of converting and occupying a building in order to warrant a replacement dwelling being allowed, in principle, on the same site.

In addition, if a replacement dwelling was being proposed on the site, the floor area of the existing building would be used as a guide to calculate the floor area of a proposed replacement dwelling. This would be calculated on the basis of a replacement dwelling not being materially larger than the size of the existing dwelling it is to replace and if the existing dwelling had not been extended, a further 50% of the original floor area of the existing dwelling could be added to the floor area of a replacement dwelling.

I note that the floor area of the building proposed under the previous application, reference 2012/1185, was 190.84 square metres and the floor area of this approved development could theoretically be extended by 50% under policy ENV29 of the Replacement Local Plan which could equate to the overall floor area of the building being 286.26 square metres.

This current proposal would provide an overall floor area of 258.85 square metres, less than the potential floor area which could be implemented. The floor area therefore being provided under this current application would in my opinion accord with policy ENV29 of the Replacement Local Plan which deals with replacement dwellings within the Green Belt.

Furthermore, I am mindful that the footprint of the existing squash club buildings is 169 square metres and the current proposal under consideration would provide a footprint of 158 square metres.

I consider therefore that the built footprint of development on the site would be less than the current buildings on the site, and the floor area of this current proposal when compared with the previously granted scheme, would amount to less development within then Green Belt.

I also consider that the development proposed, given that the buildings equate to less footprint than the existing buildings on the site, will reduce the built footprint on the site which will open up this Green Belt location and therefore improve the character of the Green Belt.

I therefore consider, given the extant permission on the site, as set out above and that the proposal will result in no greater impact on the open character of the Green Belt in comparison to the proposals to convert the buildings to residential use, these create the very special circumstances that in my opinion outweigh any potential harm to the Green Belt.

The proposed dwelling will also be set back from the road edge, which in my opinion will improve the appearance of the site and will result in less of an impact on the open character of the Green Belt.

I am also mindful that the existing building on the site does not have any architectural merit and the building proposed would provide a modern interesting design, which in my opinion, would enhance the area whilst still protecting the open character of the Green Belt.

In respect to the proposed detached garage this would be assessed as a curtilage building to the proposed dwelling. In my opinion given that the garage is of a limited scale and is designed to be in keeping with the proposed dwelling, the garage will result in no undue impact on the open character of the Green Belt or the area in general.

I am satisfied that the proposed dwelling together with the garage result in no undue impact on the immediate neighbouring property with no undue overbearing, overshadowing or overlooking impacts.

I am also satisfied that the proposed development of the site results in no undue impact on the area in general.

I would suggest that should planning permission be granted for the proposal permitted development rights should be withdrawn from the property in order for any future extensions to the property to be assessed in respect to their potential impact on the open character of the Green Belt and on neighbouring properties.

I note that a Protected Species Survey has been undertaken in respect to the proposal and note that Nottinghamshire Wildlife Trust are satisfied that the proposal will result in no undue impact on protected species at the site. The Nottinghamshire Wildlife Trust however have advised that a note should be attached to any grant of planning permission requiring the applicant to stop works at the site in the event that bats are found and for the Bats Conservation Trust to be contacted immediately should this be the case.

In respect to the impact of the development on highway safety given that the existing access is to be utilised in order to serve the dwelling and the Highway Authority has raised no objections to the proposal subject to conditions, I am satisfied that the proposal will not be detrimental to highway safety. I consider however that the conditions suggested by the Highway Authority are attached to any grant of planning permission.

Accordingly, I recommend that planning permission be granted.

Recommendation:

GRANT PLANNING PERMISSION subject to the following conditions:

Conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

- 2 The development shall be undertaken in accordance with the details as set out within the application forms received on the 10th March 2014, the Design and Access Statement received on the 10th March 2014, the plans received on the 10th March 2014 and the 9th June 2014 and the Protected Species Report received on the 2nd June 2014.
- 3 Before development is commenced there shall be submitted to and approved by the Borough Council precise details and samples of all materials to be used in the external construction of the proposed dwelling. Once these details are approved the dwelling shall be built in accordance with these details unless otherwise agreed in writing by the Borough Council as Local Planning Authority.
- 4 Before development is commenced there shall be submitted to and approved by the Borough Council precise details of the means of enclosure of the site. The approved means of enclosure shall be erected before the dwelling is first occupied, and shall thereafter be retained unless alternative means of enclosure are agreed in writing by the Borough Council as Local Planning Authority.
- 5 Before development is commenced there shall be submitted and approved by the Borough Council a landscape plan of the site showing the position, type and planting size of all trees and shrubs proposed to be planted.
- 6 The approved landscape scheme shall be carried out in the first planting season following the substantial completion of the development and any planting material which becomes diseased or dies within five years of the completion of the development shall be replaced in the next planting season by the applicants or their successors in title.
- 7 Before development is commenced there shall be submitted to and approved in writing precise details of the means of surfacing of the unbuilt in portions of the site. Once these details have been approved the development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Borough Council as Local Planning Authority.
- 8 No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4 x 43 metres are provided in accordance with details to be first submitted to and approved in writing by the Borough Council as Local Planning Authority. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.
- 9 No part of the development hereby permitted shall be brought into use until a vehicular verge crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Borough Council as Local Planning Authority.
- 10 No part of the development hereby permitted shall be brought into use until

the existing site access that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as verge in accordance with details to be first submitted to, and approved in writing by, the Borough Council as Local Planning Authority.

- 11 No part of the development hereby permitted shall be brought into use until all drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 5.5 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.
- 12 Pedestrian visibility splays of 2.0 metres x 2.0 metres shall be provided on each side of the vehicular access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6 metres above the carriageway level at all times.
- 13 No part of the development hereby permitted shall be brought into use until the access driveway, parking and turning area is constructed with provision to prevent the unregulated discharge of surface water from these areas to the public highway in accordance with details first submitted to and approved in writing by the Borough Council as Local Planning Authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 14 No works permitted under Class A, B, C, D and E of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order) shall be undertaken without the prior written permission of the Borough Council as local planning authority.

Reasons

- 1 In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt.
- 3 To ensure a satisfactory development, in accordance with the aims of Policy ENV1 of the Borough Council Replacement Local Plan. (Certain Saved Policies 2008)
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- 8 In the interests of highway safety.
- 9 In the interests of highway safety.
- 10 In the interests of highway safety.
- 11 In the interests of highway safety.
- 12 In the interests of highway safety.
- 13 In the interests of highway safety.
- 14 To protect the amenity of adjoining and nearby dwellings, in accordance with the aims of policy ENV1 of the Gedling Borough Replacement Local plan (Certain Saved Policies 2008).

Reasons for Decision

Whilst the proposed development does not strictly accord with the guidance as set out within the National Planning Policy Framework 2012 and the policies contained within the Replacement Local Plan (Certain Policies Saved 2008), I consider that there is a justification for the development in order for the development to be acceptable within this Green Belt location. I am satisfied that the proposed development of the site results in no undue impact on the Green Belt, neighbouring properties, highway safety or protected species.

Notes to Applicant

The attached permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance you are advised to obtain permission from the owner of the land for such access before beginning your development.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property

Search Service on 0845 762 6848 or at www.groundstability.com.

Your attention is drawn to the attached comments from the Nottinghamshire Wildlife Trust.

The proposal makes it necessary to construct a vehicular verge crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Customer Services to arrange for these works on telephone 0300 500 80 80.

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework.

Date Recommended: 22nd July 2014