
Appeal Decision

Hearing held on 6 September 2016

Site visit made on 6 September 2016

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 27 September 2016

Appeal Ref: APP/H2265/W/16/3147606

The Butts, Beechin Wood Lane, Platt, Sevenoaks, Kent TN15 8QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr William Terry against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/15/00978/FL, dated 18 March 2015, was refused by notice dated 12 October 2015.
 - The application sought planning permission for the development described as '*Section 73 application to vary conditions 1 (direction of shooting); 2 (maximum number of archers and club use); of planning permission TM/12/01294/FL (Retrospective application for engineering operation to alter archery field by cutting bank to south west and deposit arisings to north west)*' without complying with conditions attached to planning permission Ref TM/12/01373/FL, dated 23 December 2013.
 - The conditions in dispute are Nos 1 and 2 which state that:
 1. *Notwithstanding drawings WT/2010/14A and WT/2010/16C, all archery activities practised pursuant to this consent shall accord with the Rules of ArcheryGB and involve shooting on the approved field only. At all times there shall be a minimum of a 50 yd overshoot to the boundaries with the neighbouring properties of The Barn, Pigeons Green and Pigeons Green Cottage and a minimum 20 yd side safety margin to the boundary of the site with Boneashe Lane.*
 2. *No southwards shooting of archery shall take place until the 20 yard side safety buffer to Boneashe Lane has been clearly demarcated on site and all land within the side buffer has been landscaped. These shall be in accordance with details and timetable to be submitted to and approved by the Local Planning Authority.*
 - The reasons given for the conditions are:
 1. *In the interests of the actual and perceived public safety of the area to comply with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.*
 2. *In the interests of the actual and perceived public safety of the area to comply with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.*
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Decision

1. The appeal is allowed and planning permission is granted for the development described as Section 73 application to vary conditions 1 (direction of shooting); 2 (maximum number of archers and club use); of planning permission TM/12/01294/FL (Retrospective application for engineering operation to alter archery field by cutting bank to south west and deposit arisings to north west) at The Butts, Beechin Wood Lane, Platt, Sevenoaks, Kent TN15 8QN in accordance with the application Ref TM/15/00978/FL made on the 18 March 2015 without complying with conditions Nos 1 and 2 set out in planning
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permission No TM/12/01373/FL granted on 23 December 2013 by the Tonbridge & Malling Borough Council, but otherwise subject to the attached schedule of conditions.

Application for costs

2. At the Hearing an application for costs was made by Mr William Terry against Tonbridge & Malling Borough Council. This application is the subject of a separate Decision.

Procedural matter

3. Whilst I have taken the site address from the application form, it was confirmed at the Hearing that the site is within Platt and I have revised the address accordingly in the heading above.

Background and Main Issue

4. The Council granted permission on 23 December 2013 for a Section 73 application Ref TM/12/01373/FL to vary conditions on planning permission Ref TM/12/01294/FL which relates to the use of the site as an archery field. Amongst other things, TM/12/01373/FL allows for shooting to take place in a southerly direction. The Council has included within conditions 1 and 2 provisions it considers necessary to safeguard the users of Boneashe Lane.
5. It was confirmed at the Hearing that the appeal proposal relates to the variation of condition 1 relating to the 18 metre (20 yard) side safety buffer with Boneashe Lane and the deletion of condition 2 which sets out that there shall be no southwards shooting of archery until the 20 yard side safety buffer to Boneashe Lane has been clearly demarcated on the site and all land within the side buffer has been landscaped in accordance with details submitted to and approved by the local planning authority. The appellant contends that the disputed conditions are not necessary, reasonable or serve a planning purpose in respect of Boneashe Lane.
6. It was also confirmed that shooting has been undertaken at the archery field in a southerly direction and that the requirements of condition 2 have not been discharged. Whilst the Council did not deal with the application on the basis of it being retrospective, given the evidence provided at the Hearing, I have dealt with the appeal on this basis.
7. I note that the appeal site is situated within the Green Belt. The proposed development relates to the provision of outdoor sports and recreation facilities which the National Planning Policy Framework (the Framework) in paragraph 89 exempts from being inappropriate development.
8. The main issue for the appeal is whether the disputed conditions are necessary or reasonable in the interests of the safety of users of Boneashe Lane.

Reasons

9. I saw at my site visit that Boneashe Lane is a narrow, single tracked sunken public lane and that the boundary between the archery field and Boneashe Lane is marked by hedging, trees and a timber fence. I observed that the archery field narrows significantly to its southern end, which is marked by a timber faced embankment with stop netting.

10. It was explained during the Hearing that Archery GB provides insurance for Archery Clubs and that its rules set out the extent of safety buffers required for archery fields. In this case, the archery field has been assessed by Archery GB as safe for 2 way shooting. The relevant safety buffer under Archery GB rules is the 20 yard buffer with Boneashe Lane, measured from the end of the target line. The safety buffer is obliquely drawn from 10 yards out of the shooting line towards the target line and beyond into the overshoot buffer. Whilst it has been argued that the buffers are advisory, it is clear from the Hearing that they have to be complied for insurance requirements, unless a dispensation is granted by Archery GB. The British Long-Bow Society (BLBS) is concerned with the activities of archers and recommends a 20 yard side buffer at the discretion of the archers involved. It was explained at the Hearing that the practice of archery in the UK has an excellent safety record. It was also explained that dispensations can be allowed by Archery GB in respect of safety buffers in certain circumstances, such as where a bank or a wall exists. The appeal site is subject to a dispensation in respect of the safety buffer to the adjoining commercial premises, but not in respect of Boneashe Lane.
11. Condition 8 of TM/12/01373/FUL includes that longbows shall be used in strict accordance with the safety standards and requirements of both the BLBS and Archery GB. The parties agree that the 20 yard side buffer can be achieved with Boneashe Lane, but it was clear at the site visit that due to the boundary screening and difference in levels with Boneashe Lane, it is difficult to ensure that the safety buffer is achieved without reference to it be demarcated on the site. Consequently, targets could be erected within the buffer zone which would be potentially dangerous to users of Boneashe Lane, who could not be seen from the archery field. Boneashe Lane is outside of the control of the appellant.
12. The appellant has stated that the disputed conditions go beyond the role of planning into areas which are controlled by other bodies and in this respect has referred to the Planning Practice Guidance which includes that specific controls outside planning legislation may provide an alternative means of managing certain matters. However in this case, I consider it reasonable to set out in a planning condition the safety buffers as required by Archery GB in the interests of public safety as these are not subject to specific control elsewhere in legislation. This would also address concerns in the locality regarding perceived safety. It has also been stated that the archery is practiced towards safety nets and not towards Boneashe Lane. However, this does not remove the need for the side safety buffer as set out in the relevant rules.
13. The appellant has stated that Policy CP 24 of the Tonbridge and Malling Core Strategy 2007 (Core Strategy) as referenced in the reason for the disputed conditions is not engaged as it is focused upon built development. However, whilst the policy refers to design advice and supplementary documents, it also states '*and wherever possible, development should make a positive contribution towards the enhancement of the appearance and safety of the area*'. I consider it therefore to be engaged.
14. Therefore, in respect of the tests set out in paragraph 206 of the Framework and the PPG, I consider that condition 1 to be necessary, relevant to planning and the development and reasonable in all other respects and compliant with Core Strategy Policy CP24. However, I am mindful of the scope for Archery GB to grant dispensations in respect of the safety buffers, as reflected in the

last assessment for the site and set out on the submitted Form J16. It was clear at the Hearing that the appellant could seek a dispensation from Archery GB in respect of the safety buffer to Boneashe Lane, given the boundary treatment and planting which has become established since the planning permission was granted and I consider that the condition could be amended to allow for any such future dispensations to be considered by the local planning authority.

15. In respect of condition 2, given the difficulty in relating the 20 yard safety buffer to the edge of Boneashe Lane, I consider that it is necessary and reasonable that this is clearly demarcated on the archery field in the interests of public safety. I do not consider that the catch net which has been erected at that end of the field after the planning permission was granted, as seen at the site visit, achieves this as it falls within 20 yards of Boneashe Lane. As discussed at the Hearing the safety buffer could be adequately demarcated in a simple way, such as through the use of a post or marker.
16. I have considered the Council's concerns regarding the 20 yard buffer not being complied with and regarding enforceability. I acknowledge that conditions at the site have changed with the existing landscape having matured since the permission was granted and that whilst the disputed condition refers to the land in the side buffer being landscaped, this in itself does not mean that all of the buffer area should be planted. I note that no application has been made to discharge the condition and consequently, the requirement has not been tested. However, I do not consider it necessary to secure the planting of the 20 yard side buffer in the interests of public safety given the existing landscaping and boundary treatment and that the buffer could be demarcated on the archery field in a simple way. However, given that I am not fully aware of the condition of the site when the planning permission was granted, I do not conclude on whether this element of the condition was necessary at that time.
17. I consider that in the absence of any dispensation from Archery GB in respect of Boneashe Lane, it is necessary for the 20 yard buffer to be demarcated at the southern end of the field in the interests of public safety and to ensure that the appropriate safety buffer can be achieved. In this respect the condition accords with paragraph 206 of the Framework. However, I do not consider it necessary that additional landscaping works are undertaken given the current conditions at the site. I consider that the disputed condition 2 should be modified accordingly.

Other matters

18. I have considered the comments made by interested parties regarding the planning history of the site. I have also considered the comments regarding the maintenance of the overshoot safety buffers, but these are not in dispute in this appeal. I have also considered the comments regarding arrows being found outside of the appeal site, but the evidence presented does not lead me to a different conclusion.

Conditions

19. If the appeal were to be allowed, a new planning permission would be granted. Whilst I have imposed new conditions 1 and 2 in respect of the side safety buffer in the interests of public safety, consideration has to be given as to whether any previous conditions should be imposed on any new permission.

This was discussed at the Hearing. I consider the undisputed conditions should remain unaltered other than condition 3, which should be amended to secure the retention of the fence panels erected in the south west corner of the archery field in the interests of public safety to reflect work undertaken, as the original condition does not do this. I have updated references to the Town and Country Planning General Permitted Development) Order 2015 in conditions 4 and 9.

20. The conditions regarding when the archery field can be used, preventing illumination of the site and use of public address systems or amplified sound systems and regarding the use of the catch nets are re-imposed in the interests of safeguarding the character and appearance of the countryside. The condition regarding specific archery activities is re-imposed in the interests of public safety and that regarding the car park provision re-imposed in the interests of highway safety.

Conclusions

21. I consider that it is necessary to secure the 20 yard side safety buffer through the use of planning conditions and to allow for any future dispensations which may be granted to be considered. I have replaced condition 1 accordingly. In respect of condition 2, I consider it necessary that the side safety buffer is demarcated at the southern end of the site unless otherwise agreed by the local planning authority in the interests of public safety. I do not consider it necessary that the side safety buffer is demarcated by landscaping and have imposed a new condition accordingly.
22. For the reasons given above I consider that the appeal should be allowed and planning permission granted.

Philip Lewis

INSPECTOR

Schedule of conditions

- 1) Notwithstanding drawings WT/2010/14A and WT/2010/16C, all archery activities practised pursuant to this consent shall accord with the Rules of Archery GB and involve shooting on the approved field only. At all times there shall be a minimum of a 50 yard overshoot to the boundaries with the neighbouring properties of The Barn, Pigeons Green and Pigeons Green Cottage and a minimum 20 yard side safety margin to the boundary of the site with Boneashe Lane unless details of a specific dispensation obtained from Archery GB has been submitted to and approved in writing by the local planning authority.
- 2) Southwards shooting of archery shall not take place until the 20 yard (18 metres) side safety buffer to Boneashe Lane has been clearly demarcated on site adjacent to the southern target line in a position agreed in writing by the local planning authority. The side safety buffer to Boneashe Lane shall be clearly demarcated at all times unless otherwise agreed in writing by the local planning authority.
- 3) The fencing panels erected to the south-west corner of the archery field shall be retained at all times.
- 4) Notwithstanding the provisions of Part 4 of Schedule 2 to the Town and Country Planning General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) (with or without modification), unless otherwise agreed in writing, the use of the site shall be restricted to be used for:
 - i) the applicant's own private recreational and practice purposes with a maximum of 8 participants, or
 - ii) ad hoc practice by a maximum of 32 club members between the hours of 1030 to 1800 on Wednesday and Thursdays and weekends, or
 - iii) a club run from the site with a maximum of 3 tournaments limited to the period April to September each year, with a maximum of 32 competitors in each tournament.
- 5) There shall be no illumination of the site without the prior approval in writing of the Local Planning Authority.
- 6) The approved catch safety netting shall be erected in strict accordance with the manufacturer's instructions and retained so at all times whilst archery is taking place at the site. It shall be drawn back to the supporting poles immediately on cessation of an archery session and maintained in that position until the commencement of the next session.
- 7) There shall be no use of public address systems or other use of amplified sound systems at any time.
- 8) All archery activities shall be limited to the use of only Longbows (specifically no crossbows, recourse or compound bows shall be used). The Longbows used shall be of a maximum draw weight of 70lbs with an average draw weight no greater than 50lbs and shall only be used in strict accordance with

the safety standards and requirements of both the British Long Bow Society and Archery GB (formerly the Grand National Archery Society) or any body that may in the future supersede such organisation(s).

- 9) There shall be no club use or tournaments until a minimum 25 space car park has been provided, surfaced and drained in accordance with details that have first been submitted to and approved by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

APPEARANCES

FOR THE APPELLANT:

Bob McQuillan	Robinson Escott Planning
Tom Marshall	Robinson Escott Planning
David Harrison	Elected Director Archery GB (attended site visit but left before the Hearing was closed)
John Bedford	Member British Long-Bow Society
William Terry	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Marion Geary	Tonbridge and Malling Borough Council
Paul Batchelor	Tonbridge and Malling Borough Council (did not attend site visit)

DOCUMENTS

- 1 Note by David Harrison in respect of Archery GB Rules.
- 2 Statement of Common Ground signed 6 September 2016
- 3 Application for award of costs by Mr William Terry
- 4 Local Planning Authority written response to costs application
- 5 TM/12/01373 plans numbered WT/2010/11a and WT/2010/16C.