
Appeal Decision

Site visit made on 17 October 2016

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 4 November 2016

Appeal Ref: APP/H5960/W/16/3155875

Magdalen Park Bowls Club, 38 Magdalen Road, Wandsworth, London SW18 3NP

- 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 Trustees of Magdalen Park Bowls Club against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2015/1133, dated 3 March 2015, was refused by notice dated 22 April 2016.
 - The development proposed is demolition of the existing clubhouse, erection of replacement clubhouse with internal bowling rink and erection of six residential properties.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted a unilateral undertaking which would oblige any occupier of the proposed houses to, i) become and remain a member of the bowls club and its committee, ii) make a maintenance contribution to the club, iii) monitor and report any security issues, iv) receive payment for duties undertaken in respect of item iii).

Main Issue

3. The main issue in this appeal is the effects of the proposal in relation to the loss of land for outdoor sport and open space and the consequent effects on character.

Reasons

4. Policy DMO 1 of the Local plan Development management Policies (adopted March 2016) (DMP) is entitled 'protection and enhancement of open spaces'. It states, amongst other things that open areas, including those not designated or displayed on the proposals map, will be protected and enhanced in open use and new development will only be permitted where, (i) it is linked to the use of the open space, and (ii) it does not harm the character, appearance or function of the open space. The policy adds that where there is a net loss of open space, replacement provision will be required.

5. Policy DMO 2 relates to 'playing fields and pitches, sport, play and informal recreation'. It states that, amongst other things: change of use or development that would lead to the loss of sports pitches, playing fields, or land last used for outdoor sport, or which would prejudice the land's future use for sport in terms of quality or quantity of facilities, will not be permitted except where they meet the exceptions in the NPPF and in accordance with Policy PL4c; improvements and improved access for people to facilities will be approved provided there is no unacceptable impact on open space, local amenity or biodiversity.
6. The appeal site currently accommodates a single storey club-house and 2 outdoor grass bowling greens, only one of which is tended at present. The proposal would replace the club-house and one of the greens with a 2 storey building providing club-house facilities and an indoor bowling facility; one outdoor bowling green would remain. The proposal also included the construction of 6 houses. It is clear that the 6 houses would provide the necessary funds to undertake the remainder of the scheme.
7. It seems clear to me that the appeal site falls to be considered under Policy DMO 1 (as well as others) as it forms an open space even though not specifically noted on the proposals map. In relation to the proposed 6 houses the appellant has submitted the Unilateral Undertaking and so claims a functional link between the houses and the open space use of the site. Having given this matter careful consideration, it seems to me that the sole purpose of the Undertaking is to set up a link between the houses and the open space use. I do not consider that this is what is intended by the policy which, to my reading, requires that the built form provides for the open space use in the same way that changing rooms or a club-house would. It sets up a rather artificial link between the houses and the club which is not 'necessary' (other than with the sole aim of creating a link) and is not reasonable in as much as it requires actions by the owners/occupiers of the houses which they may not be able to undertake, and should not be required to. In any event and for the same reasons, I do not consider that the Undertaking satisfies the requirements of Regulation 122 of the CIL Regulations.
8. In relation to the parts of Policy DMO 1, the houses would not be part of an 'open use' and the fact that part of the open land would be built upon and not provide any directly functional use for the open land means that this aspect of the policy is not met. The final part of DMO 1 requires that where there is a loss of open space, replacement should be provided and none is proposed by the appeal scheme. In this respect the appellant considers that the re-provision of the bowling facilities indoors meets this aspect of the Policy. However, my view is that the Policy seeks the re-provision of open space.
9. The proposal would result in the loss of open land by the provision of 6 houses (as well as sport/recreation facilities). This would take the land for the 6 houses outside a recreational use and would mean that, in all probability, it would not return to a recreational use. This would be contrary to the first part of Policy DMO 2. In relation to the exception referred to, paragraph 74 of the NPPF states that existing open space, sports or recreation buildings should not be built on unless, amongst others, the development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss. The loss of the land upon which the houses would be built is an unacceptable one for the reasons that I set out earlier and so this aspect of the NPPF and Policy

DMO 2 is not met. DMO 2(d) states that improved facilities will be approved providing there is no unacceptable impact on open space, amenity or biodiversity. The loss of open space has already been assessed under Policy DMO 1 and I have found it to be unacceptable.

10. The appellant refers to Policies DMC 1, DMC 2 and IS 6 in relation to the need for community facilities and their improvements. The definition of community facilities under Policy IS 6 differs slightly from that inserted before Policy DMC 1 and there seems to be some ambiguity as to whether sports facilities would be included in 'health and well-being' when the definition in the DMP extends to include health, medical, correctional, childcare facilities. However, the Council has included these as relevant policies and I have considered them and in this respect they support the proposal in so far as it provides for sports/recreational use. Policy DMH 4 also seeks the provision of new homes and in this sense offers support for the proposal.
11. I have taken account of all of the other matters raised by the appellants and others in relation to the proposal. I have no doubt that the scheme would bring about better facilities for the bowls club. However, central to the consideration of this scheme is the loss of the land to the housing development and this brings about fundamental conflict with Policies DMO 1 and DMO 2 in that land that is currently used as part of an outdoor recreational facility would be removed from that use and would be very unlikely to return to that use. I consider this conflict outweighs any support given by other policies or benefits in relation to the standard of facilities or additional homes. As a result, the appeal is dismissed.

S T Wood

INSPECTOR