



Appeal Decision

Hearing Held on 20 August 2019

Site visit made on 20 August 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/E5330/W/19/3220813

Blackheath and Greenwich Bowling Club, Brooklands Park, Blackheath, London SE3 9BL

- 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 Park Lane House Ltd against the decision of Royal Borough of Greenwich Council.
 - The application Ref 18/0677/F, dated 22 February 2018, was refused by notice dated 24 July 2018.
 - The development proposed is described as for the demolition of the existing bowling club and the construction of five dwellings (4x3 storeys and 1x2 storeys), plus access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency.
3. A new version of the National Planning Policy Framework (the Framework) was published in February 2019, which supplants the version relevant at the date of the decision on the application that led to this appeal. The Framework makes clear that it is a material consideration in planning decisions from the date of its publication. Accordingly, the main parties' views on the revised Framework were sought and its contents were discussed at the hearing. I will take these comments and the Framework into account in my assessment of the planning merits of the case.
4. In the week prior to the hearing, the Council submitted copies of further documents relating to guidance produced by Sport England in addition to a copy of correspondence from the Blackheath Cator Estate Residents Ltd relating to traffic control. At the hearing it was confirmed by the Appellant that they had the opportunity to review these additional documents and were able to provide a written rebuttal statement specifically in respect of these matters. I allowed time at the hearing for the main parties to consider these additional documents and their respective contents were discussed. Consequently, I consider that no prejudice would occur as a result of me taking this material

into account, taken together with the extracts of relevant Court judgements discussed at the hearing and submitted, by agreement, after its closure.

5. Further to the above, at the hearing a representative speaking on behalf of the Appellant submitted a map entitled 'Blackheath & Greenwich Bowls Club Membership Catchment' which it was understood showed the location of homes of members of the bowling club. These details were discussed at the hearing and the Council had the opportunity to comment. I consider therefore that no prejudice would occur as a result of me taking it into account in my consideration of the merits of the case.

Background and Main Issue

6. The planning application which is the subject of this appeal, concerns the potential redevelopment of the site which is currently occupied by Blackheath and Greenwich Bowling Club. In conjunction with that planning application, the Appellant sought planning permission for redevelopment of a nearby site described as the Tennis Courts and Clubhouse at Blackheath Park (the Tennis Court Site).
7. The Council separately assessed the two planning applications and approved the application in relation to the redevelopment of the Tennis Court Site in June 2018. The Appellant maintains that the applications should have been determined together by reason of the assertion that the appeal scheme would constitute an enabling development which would allow for the bowling club to relocate to the Tennis Court Site.
8. The main issue in this appeal is whether or not the loss of the existing Community Open Space (COS) would be acceptable.

Reasons

9. Policy OS1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (the Core Strategy) seeks to safeguard, enhance and improve access to existing open space which includes COS as defined on the policies map. The evidence before me indicates that the appeal site is designated as COS for the most part.
10. Policy OS(b) of the Core Strategy provides that new buildings within COS will only be allowed where they are ancillary to the existing land use and subject to certain criteria concerning design and scale that is compatible with surrounding development. This policy further confirms that planning permission for specialist sporting development may be granted, if the existing development becomes surplus to demand.
11. The supporting text to Policy OS(b) of the Core Strategy states that, in every case, COS fulfils specific functions for the community and provides a welcome break within a built up area. This supporting text further makes it clear that not all COS will provide general access to the public and includes privately owned sports grounds. However, it is maintained by the Appellant that, by reason of the nature of the appeal site which is privately owned and due to the presence of a fence that surrounds the bowling club, the appeal site does not contribute to providing a welcome break within the surrounding built up area.
12. Notwithstanding the submissions made, in my view and by reason of the presence of mature trees separated by gaps which provide glimpses of the site

- and due to the open nature of the bowling green within the context of the surrounding built form, the appeal site does constitute a welcome break within the context of the surrounding built environment and makes a positive contribution to the character and appearance of the surrounding area.
13. The proposed scheme is for new buildings and whilst it is acknowledged by the Council that the proposed dwellings may be compatible with nearby residential development, the new buildings would not be ancillary to the existing use of the COS as a sports ground. Furthermore, as evidenced in the submissions, the current use of the site is not surplus to demand and is, on the contrary, operating at capacity.
 14. Whilst I acknowledge the submissions made by the Appellant with regards to the amount of COS at the appeal site that they believe will be retained following completion of the proposed scheme, it is noted that the figures provided include areas of private residential gardens of the proposed dwellings that would not fulfil a specific function for the local or wider community. Consequently, I do not agree with the Appellant's assessment that only a limited amount of COS would be lost due to the appeal scheme, but rather conclude that a significant and substantial amount of the COS would be lost to the proposed residential development.
 15. In addition to the above, it has been put to me by the Appellant that by opening up the frontage to the site, its contribution to open space would be enhanced and that any loss of open space resulting from the development would be very limited in the context of the total amount of open space available within the Borough.
 16. However, by reason of the significant proportion of COS that would be lost to the proposed development, in my view opening up of the frontage would not provide any such enhancement. Furthermore, whilst the appeal site constitutes only a portion of the total amount of open space within the Borough, given its importance and the level of protection afforded to such spaces within the local planning policies, any loss of such space would require clear justification. I therefore attach only very limited weight to these considerations in the determination of this appeal.
 17. For the above reasons, the appeal scheme would conflict with Policy OS(b) of the Core Strategy. Subsequently, by reason of the loss of the bowling green and club that would result from the proposal, the appeal scheme would not accord with Policies 3.16, 3.19 and 7.18 of the London Plan (2016) which, amongst other things, seek to protect open space, existing sports facilities and social infrastructure. I attach significant weight to the loss of the COS and the resulting development plan conflict, in the determination of this appeal.
 18. The Appellant maintains that the proposal would release funding for the Tennis Court Site and that the funding released from the appeal proposal would be linked to the Tennis Court Site by a planning obligation. The Appellant further maintains that when the schemes are considered together, they would be compliant with development plan policies and that, without the appeal scheme, redevelopment of the Tennis Court Site would not be implemented and consequently the associated benefits of that development would not arise.
 19. However, I consider that in cases such as this it is necessary to ensure a proper balance would be struck, whereby the amount of enabling development,

and associated harm accepted by the public, is limited to that which is required to provide the funds necessary to secure the public benefits elsewhere.

20. I acknowledge that the bowling club would benefit from new facilities which would allow this long standing and highly successful sporting club to expand, provide appropriate facilities in relation to improved access for disabled bowls players and appropriate changing facilities to accommodate visiting bowling teams that have travelled to the club. Furthermore, and following statements made on behalf of the Appellant at the hearing, it is understood that the proposed new facilities to be sited at the Tennis Court Site would provide sufficient space within the clubhouse to allow for indoor bowls games to be played during the winter and in periods of inclement weather, whereas the current facilities are unable to do so to any sufficient degree due to the restricted space available.
21. However, the Council contends that information required to support enabling development, such as financial assessments, was not provided by the Appellant and, consequently, there is no justification that the scheme be assessed on that basis. In my view, whilst I acknowledge that there is no specific policy requirement to do so, in order for the scheme to be considered as enabling development, it is reasonable that the applicant provide evidence, for example in the form of financial appraisals and supporting information regarding all of the alternative options that were considered, which demonstrates that the redevelopment of the entire appeal site is required.
22. The evidence before me provides that, in respect of the options that may have been available to the bowling club, three scenarios were considered. Firstly, the Appellant determined that the bowling club would stagnate, and its continued existence would be jeopardised, if nothing was done.
23. Furthermore, the Appellant considered that redevelopment of the existing bowling club site would not be appropriate as the club would have a period of inactivity for two years whilst the proposed works were carried out. Consequently, the Appellant considered that relocation of the facility would be necessary to avoid any such scenario, allowing residential development of the appeal site to generate financial assistance for the construction of the new facilities at the Tennis Court Site. However, no assessments or reports from relevant experts were presented by the Appellant which demonstrated that other options to secure funding for the new facilities were not feasible.
24. At the hearing, the Appellant maintained that other scenarios and options were considered by the bowling club. These included seeking finance from private lenders as well as seeking funding through lottery grants. In respect of these alternative possible options, it was stated that the current financial position of the bowling club meant that no alternative sources of funding, including lottery grants, could be obtained and that there had been little or no interest from interested parties to make alternative sporting or recreational use of the sites.
25. Notwithstanding the oral statements made at the hearing, no substantive evidence has been provided by the Appellant that confirms the current financial position of the bowling club, nor is there any substantive evidence that confirms that redevelopment of the site would require two years to complete or that the club's existence would be threatened if the appeal scheme was refused. Further, it was stated at the hearing that the decision to construct five dwellings at the appeal site was determined on the basis that it was believed

- this number of dwellings would complement nearby residential development in terms of scale, character and density, rather than being based on any specific financial need in order to provide sufficient funding for the new facilities.
26. Consequently, in my view, there is insufficient evidence to demonstrate that the proposal amounts to enabling development or that the loss of COS at the appeal site would be justified or proportionate. Whilst I acknowledge the contents of the unilateral undertaking, from the information and evidence supplied it would not be possible to adequately assess whether sufficient funds could be generated by a reduced scheme which may preserve a larger portion of the appeal site as COS.
27. Under the circumstances, I consider that there is significant uncertainty as to whether the scheme would put the public to more expense, in terms of loss of open space, than is necessary to deliver the elements of the scheme identified as benefits by the Appellant. I give little weight to the Appellant's argument that the scheme represents enabling development.
28. The proposal would therefore conflict with Policy OS1 of the Core Strategy which seeks to safeguard, enhance and improve access to existing open space including COS.
29. Within the main parties' submissions and as referred to at the hearing, paragraph 97 of the Framework provides that existing open space, including sports and recreational buildings, should not be built upon unless one of a certain number of criteria are complied with. Criterion (b) of paragraph 97 of the Framework states that development of the existing open space would be permissible if the loss of the open space was replaced by equivalent or better facilities in terms of quantity and quality.
30. In this regard, whilst it is apparent that the open space at the appeal site would be replaced by improved facilities in terms of quality, as the total number of open spaces within the Borough would be reduced overall by the proposal, it cannot be said that the appeal scheme would result in improvements in terms of quantity. As it has been demonstrated that the current use of the land as a bowling club is not surplus to requirements and given that the proposal is not for alternative sports or recreation provision, the scheme would not accord with any of the criteria provided under paragraph 97 of the Framework.
31. In conclusion of the above, the appeal scheme would have a significant adverse effect on the existing COS. The proposal conflicts with the development plan when taken as a whole. I therefore conclude that, on balance, the loss of the COS has not been justified and, in this instance, would be unacceptable.

Other Matters

32. Notwithstanding the above, I also acknowledge there would be potential public benefits which would arise due to the relocation of the bowling club, specifically in respect of reduced parking stress near to the appeal site. Furthermore, the appeal scheme would provide five additional units towards housing supply and that the design of one of the proposed dwellings would be innovative and of a high quality. Cumulatively, by reason of the limited scale of the proposed development, I attach limited weight to these benefits in the determination of this appeal.

33. I also acknowledge the Appellant's submissions regarding the potential stagnation of the bowling club if the appeal were to be dismissed. However, the evidence before me provides only general assertions of the likelihood that dismissal of the appeal would lead to stagnation or players leaving the club and, consequently, I attach very limited weight to these factors in the overall balance of considerations. The weight attached to these considerations would not outweigh the significant harm resulting from the loss of the COS.
34. Interested parties raise several additional objections to the proposal including potential loss of outlook and privacy, the effect of the appeal scheme on the character and appearance of the Conservation Area and the effect of the proposal on the setting and significance of the listed building at Brooklands House. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue, these are not matters which have been critical to my decision.

Conclusion

35. For the reasons given above, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Martin Edwards	Cornerstone Barristers
Alan Gunne-Jones BA (Hons) Town Planning MRTPI, MIOD	Planning and Development Associates Ltd
Jeff Timms MPhil, FRICS, RMaPS	Faithorn Farrell Timms LLP
Ana Sutherland RIBA	Francisco Sutherland Architects
Steve Frost BA (Hons) Law, Economics	Greenwich Property Investments Ltd
Jocelyn Rodin	Blackheath and Greenwich Bowling Club

FOR THE LOCAL AUTHORITY

David Graham	Francis Taylor Building Temple
Neil Willey	Royal Borough of Greenwich
Marc Filion	Royal Borough of Greenwich
Andrew Harris	Royal Borough of Greenwich

INTERESTED PERSONS

1. Margaret Mears
2. Iain Langlands
3. Clive Bailey
4. Edmund Hall
5. Ken Jackaman
6. John Bartram
7. Adrian Challinor BSc.(Dunelm) FRAS
8. Geoff Barnes-Warden
9. Lorcan Cleary

DOCUMENTS SUBMITTED AT HEARING

1. Letters of Notification dated 2 August 2019.
2. Unilateral Undertaking signed by Blackheath & Greenwich Bowling Club and the Appellant.
3. Blackheath & Greenwich Bowling Club Membership Catchment Map.
4. Written copy of oral statement made by Jocelyn Rodin at hearing.
5. Copy email from Bowls England including copy of Sport England Clubhouse Design Guidance Notes (2016 Update).
6. Appellant's rebuttal statement dated 20 August 2019.
7. Written copy of Appellant's closing statement.

DOCUMENTS SUBMITTED AFTER THE HEARING BY AGREEMENT

1. Copy of judgement in R v Westminster Council ex parte Monahan [1990] 1 QB 87.