



Appeal Decision

Site visit made on 3 December 2019

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/B5480/W/19/3236760

Cranham Golf Course, St Marys Lane, Upminster RM14 3NU

- The appeal is made under section 78 of the Town Country Planning Act 1990 against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for outline planning permission following the failure of the applicant to submit further information, plans, drawings or other evidence required by a direction made by the local planning authority under section 62 of the Town and Country Planning Act 1990 and Regulation 4 of the Town and Country Planning (Applications) Regulations 1988.
 - The appeal is made by Mr B Cameron (for Cranham Golf Course) against the Council of the London Borough of Havering.
 - The application Ref P0096.19 is dated 17 January 2019.
 - The development proposed is described as an Adventure Golf Facility with ancillary overspill car parking associated with existing golf course.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council of the London Borough of Havering. That application is the subject of a separate Decision.

Preliminary Matters

3. The application is submitted in outline. The Council considered the proposal should not be considered separately from all the reserved matters and declined to consider the application on that basis. The appeal was made against the failure of the Council to give notice within the prescribed period of a decision on an application for outline planning permission following the failure of the applicant to submit further information, plans, drawings or other evidence requested by it.
4. The original application form indicated that approval for access and scale was sought as part of the application. Subsequently the appellant confirmed that approval of scale is not being sought as part of this proposal. The Appeal Statement indicates the Council considered the proposal in this way. The submitted plans are indicated as illustrative. I have dealt with the appeal on that basis.

Main Issues

5. The main issues are: whether the planning application as originally submitted is valid; if so, whether the proposal would be inappropriate development in the Green Belt; and, if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the application as submitted is valid

6. Section 62(3) of the Town and Country Planning Act 1990 (the Act) provides that a local planning authority may require that an application for planning permission must include (a) such particulars as they think necessary, and (b) such evidence in support of anything in, or relating to, the application as they think necessary. Section 62(4A) provides that the such requirements should be reasonable and relate only to matters that are likely to be material considerations.
7. Part 3, Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO) sets out the general requirements a planning application must meet in order to be considered valid. Article 7(3) states that except where Article 5(3) applies (access related), an application for outline planning permission does not need to give details of any reserved matters. For the purposes of the Act and the DMPO, specific local requirements must be set out in a published list. The published Council Checklist sets out the information required for outline applications with some matters reserved.
8. The Council did not validate the application on receipt. Instead, the Council advised on 20 February 2019 that the application ought not to be considered separately from all the reserved matters,¹ ie additional details of appearance, landscaping, layout and scale were required. Despite requests, the evidence indicates that the Council did not state clearly the ways in which the application failed to meet the national and local list requirements for a valid application.
9. The appellant followed the process set out for dealing with such disputes in Article 12 of the DMPO. The outcome is that the application is classified as a non-validated application. As such, the time scales for decision set out in Article 34 of the DMPO apply, which in turn enables an appeal to be made under section 78(2) of the Act where the Council has not given notice of their decision on the application.
10. The structure of the legislation means that it is the dispute about the need for the required information that provides the right to appeal. The appeal determination must first resolve that dispute before going on to consider whether a grant of planning permission is justified. Section 62(4A) of the Act specifies that it must be reasonable to think that the matters on which additional information was required will be a material consideration in the determination of the application, having regard to the nature and scale of the proposed development.

¹Article 5(2) of the Town and Country Planning (Development Management Procedure)(England) Order 2015

11. It is not a requirement to include one or more reserved matters as part of an outline application in order for it to be validly made. The application was accompanied by an application form; certificate of ownership; and statutory fee. Other submitted documents included site location plan; illustrative development site plan; adventure golf illustrative layout; Extended phase 1 ecological survey; Tree survey and Transport statement. In addition, on 29 August 2019, the appellant submitted illustrative plans of proposed features, site sections and landscape together with a Statement of Design Parameters (the SDP) intended to form the basis of a planning condition that would effectively establish a design code with which the reserved matters scheme must comply.
12. Taking into account the above, I conclude that the application is valid. Indeed I note that the Council, following a review of correspondence received, including the further details submitted on 29 August 2019, made the application valid the following working day, 30 August 2019. Subsequently the Council sent letters of notification to adjoining occupiers and displayed a notice on site. One expression of support was received.
13. Confirmation of validation was given to the agent by email on 18 September 2019 by which time this appeal had been lodged in order to meet the deadline for such appeals. The formal Application Acknowledgement from the Council is dated 11 October 2019. Having concluded that the application is valid, I turn now to consideration of the planning merits of the proposal.

Whether the proposal would be inappropriate development in the Green Belt

14. The appeal site is within the Metropolitan Green Belt. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate development in the Green Belt with some exceptions. Exception (b) provides for appropriate facilities for, amongst other things, outdoor sport and outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Exception (g) provides for limited infilling or the partial or complete redevelopment of previously developed land which would, among other things, not have a greater impact on the openness of the Green Belt than the existing development. Paragraph 146 (b) states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness.
15. Policy 7.16 of the London Plan 2016 seeks the strongest protection for Green Belt and resists inappropriate development. Policy DC45 of the Core Strategy and Development Control Policies Development Plan Document 2008 supports uses in the Green Belt that have a positive role in fulfilling Green Belt objectives including outdoor recreation but is more restrictive than the Framework in stating permission for buildings would only be granted permission if essential for an acceptable use.
16. The appeal site is part of an established golf course and so the principle of outdoor recreation use is established. As indicated on the illustrative plans, the proposed Adventure Golf Facility (the AGF) would require engineering operations to re-shape the land; extend the carpark and extend the maintenance storage yard; as well as works to erect a substantial number of sizeable structures.

17. The AGF would be close to a large two-bay storage/maintenance building which has a ridge height of some 15.75m AOD. One bay would become the AGF Reception/WCs and Party Room. The Design and Access Statement indicates the storage building is under-used and contains a photograph showing some empty space inside it. However, at my site visit I noted the presence of a large container on the car park side of the storage building, which does not appear in the photographs in the Design and Access Statement, and which would appear to suggest there is insufficient space within the storage building currently for all the supportive maintenance activities. Were replacement covered space to be required for the displaced storage/maintenance activities there would, it seems to me, be a likelihood of that affecting the openness of the Green Belt.
18. The base ground level for the AGF as stated in the SDP would be reduced from between 11m and 11.75m to some 10.5m AOD, with golf holes and greens not to exceed 11m AOD (the illustrative drawing 003B shows site levels near the hedge line alongside St Marys Lane as between approximately 11.72 and 11.47 AOD).
19. Adventure golf facilities typically include pathways and small greens, adventure characters to appeal to children and buildings/structures integrated into/between the holes. In terms of Paragraph 145 of the Framework, these would amount to the 'facilities' needed to create the AGF. The Grounds of Appeal summarise that the illustrative drawings show a dinosaur-themed course. These integral features are illustrated on Plans 005 and 006, with the dinosaur adventure characters being stated as up to 2m in height which would be below the eaves height of the adjacent storage building.
20. However, the SDP indicates that the maximum height of any adventure character or other features would not exceed 14.6m AOD which would mean they could be up to 4.1m high in relation to the proposed ground levels of some 10.5m AOD, significantly higher than shown on the illustrative scheme. On that basis, the features could also be up to 1.15m higher than the boundary hedgerow and only about some 1.15m lower than the ridge of the storage building, which is already a dominant feature in the landscape. Moreover, there is no definitive indication of the form and scale of the proposed characters and features, which I consider necessary to enable a proper assessment of the effect of the proposal on the openness of the Green Belt.
21. The SDP indicates there would be no more than one 'house' feature or equivalent and no more than one 'cave' feature or equivalent. The 'house' feature would be limited in height to 3.4m, but the SDP is silent with regard to the height of the 'cave' feature. Whilst the SDP also indicates that any building would have a footprint no greater than 4m by 5m, it is not clear whether the 'cave' feature would also be limited to this size. In any event, in the absence of the details regarding the form and mass of the proposed 'building' and 'cave', I cannot confidently conclude in relation to the effect of these on the openness of the Green Belt.

Other considerations

22. As requested by the appellant, I viewed the nearby Adventure Golf facility at King George's Playing Fields, also in the Green Belt. Nothing that I observed leads me to any different conclusion. Moreover, it seems likely that a further matter for consideration of the effect on the openness of the Green Belt of the

proposed AGF would be the likely style, height and extent of means of its enclosure.

23. The proposal would provide additional recreational facilities which would be beneficial to the health and well-being of the community. It would also be likely to add to the general viability of the golf club. However, in the absence of full details it is not possible for me to confidently conclude that there would not be a way in which such benefits could be achieved with less harm to the Green Belt.

Other Matters

24. The appellant has expressed dissatisfaction with the way in which the Council has handled the application and takes issue with the accuracy of some of the Council's statements for example in respect of the seeking of pre-application advice. However, such matters do not lead me to any different conclusion.

Conclusion

25. I have considered the appeal scheme on its own merits on the basis of the evidence that is before me. I acknowledge that the appellant would prefer flexibility in designing a detailed course at reserved matters stage. However, and notwithstanding that the Council did not request further details under Part 3, Article 5(2) of the DMPO for either the appeal proposal (or the subsequent duplicate planning application submitted in October 2019 reference P1527.19), it is precisely those details, to a large extent, on which the scheme stands or falls. In the absence of that information I am unable to establish with any degree of confidence whether the proposed facilities would preserve the openness of the Green Belt and thus would not conflict with the purposes of including land within it. Accordingly, I cannot, be sure that the proposal would not be inappropriate development in the Green Belt. On balance, therefore, I conclude that the appeal should not succeed.

S Harley

INSPECTOR