
Appeal Decision

Hearing Held on 25 November 2020

Site visit made on 26 November 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2020

Appeal Ref: APP/T0355/W/20/3251178

Oak Tree Farm (rear of), Gays Lane (off Green Lane), Maidenhead SL6 2HL

- 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 The Chairman, Martin Bicknell, Maidenhead Target Shooting Club against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/03725, dated 18 December 2018, was refused by notice dated 21 October 2019.
 - The development proposed is relocation of Maidenhead Target Shooting Club from Braywick Park including creation of car park, erection of clubhouse and toilets, shooting stands, bunds, fencing, landscaping and planting etc with access off Green Lane.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by The Chairman, Martin Bicknell, Maidenhead Target Shooting Club against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - a) Whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy; and
 - b) If the development is inappropriate, whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Background

4. The Maidenhead Target Shooting Club (MTSC) was founded in 1906 and is one of the oldest National Small Bore Rifle Association Clubs in the UK, with over 130 Members. Since 1967, it was based at Braywick Park, where it had some of the best facilities for airgun and small bore shooting in the South East of England. Consequently, members were able to shoot in a range of disciplines

and compete in competitions from local to national levels. The club left the Braywick Park site in early 2019, when their lease was terminated by the Council to allow redevelopment of the site for a school and multi-use games area. The club is therefore seeking to replicate its previous facilities at the appeal site, approximately 3 kilometres south of its previous base.

Reasons

Whether Inappropriate Development

5. The appeal site lies in the Green Belt, so is subject to saved Policies GB1 and GB2 of the Royal Borough of Windsor and Maidenhead Local Plan incorporating alterations adopted in 2003 (the Local Plan). Policy GB2 says that permission will not be granted for development if it would have a greater impact on the openness of the Green Belt, or the purposes of including land in it, than an existing development on the site. Policy GB1 says that, except in very special circumstances, approval will only be given for the construction of new buildings for certain specified purposes. These include essential facilities for outdoor sports which preserve the openness of the Green Belt, or the purposes of including land in it.
6. These policies pre-date the current National Planning Policy Framework (the Framework) and its predecessors. The general aim of the Local Plan policies to preserve openness accords with the Framework, but there is an inconsistency regarding the approach to buildings associated with outdoor sport. Policy GB1 requires that such buildings are essential, whereas Paragraph 145 of the Framework refers to appropriate facilities. In accordance with paragraph 213 of the Framework, the weight I have given to the Local Plan policies is limited to their degree of consistency with more recent national policy.
7. The Borough Local Plan 2013-33 Submission Version incorporating proposed changes October 2019 (the Emerging Plan) has recently been examined. Policy QP5 seeks to protect the Green Belt against inappropriate development, in accordance with national planning policy. It also provides policy on specific rural uses, including facilities for outdoor sport. However, as the Inspector's Report is awaited, the weight I attribute to the Emerging Plan is limited to the extent that it is consistent with Framework policy.

Use of land for outdoor sport and provision of appropriate facilities

8. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl, by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 134 identifies that the Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. However, paragraph 146 identifies that certain forms of development are not inappropriate, provided they preserve the openness of the Green Belt, and do not conflict with the purposes of including land within it. One such exception is *e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*.
9. Although participants would be within buildings when shooting, the evidence given at the hearing demonstrated that the ranges are open to the elements,

and the sport involves consideration of the vagaries of outside weather conditions. There is also an element of outdoor walking involved in setting the targets, and some disciplines involve a combination of outside physical exercise interspersed with target shooting. I therefore conclude that the proposed use of the site would be for outdoor sport.

10. The development is not, however, limited to a material change in the use of the land. A range of buildings is also proposed to facilitate the use. Paragraph 145 of the Framework makes it clear that, other than in specified exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. One of the exceptions is the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, as long as the facilities preserve the openness of the Green Belt, and do not conflict with the purposes of including land within it.
11. The backstop wall at the end of the outdoor shooting ranges is a critical safety feature. The covered shooting points would provide participants with shelter from the elements, and the toilets would provide essential welfare facilities. To provide a secure site, the perimeter fencing is a necessity. The proposed office, kitchen and lounge area appears to be quite generous, but I heard that the sport involves a considerable amount of equipment that must be laid out and assembled before use, and then disassembled and stored afterwards. Whilst the evidence to demonstrate the need for this amount of floorspace is limited, the accommodation is suitable in principle. All of these are, therefore, appropriate facilities in connection with the proposed use.
12. The building also includes a 12 metre X 10 metre indoor shooting range. Participants using only this element of the complex would not be involved in outdoor sport, and the use of the outdoor ranges would not be dependent on it. Consequently, this part of the building could not be considered essential for outdoor sport, as required by Policy GB1 of the Local Plan. However, I heard that it is not uncommon for outdoor shooting ranges to be accompanied by a smaller indoor range, in order to provide a more diverse range of disciplines available to members at a single visit. The indoor component would be an integral part of the overall use of the site which, considered as a whole, would still be primarily for outdoor sport. It would, therefore, be an appropriate facility in connection with outdoor sport as described in the Framework.
13. I therefore conclude that the proposed use would be for outdoor sport, and that the buildings would be appropriate in connection with that use. Consequently, it would not be inappropriate development if it preserved the openness of the Green Belt, and did not conflict with the purposes of including land within it.

Openness of the Green Belt and the purposes of including land within it

14. The appeal proposals include the provision of a 20 metre X 15 metre building with a ridge height of 4 metres; a 5.5 metre high backstop wall approximately 45 metres in width; two shooting point buildings measuring 20 metres and 15 metres in width; and a 2.5 metre high X 4 metre wide bund along the entire length of the 100 yard shooting range. Bearing in mind that there is currently no development on the site, the cumulative volume of these buildings and earthworks would have a substantial spatial impact on the openness of the

Green Belt. The Supreme Court has held¹, however, that openness does not imply freedom from any form of development, and that, as well as the spatial dimension, visual impacts may also be a factor in considering the impact on openness.

15. The appeal site is part of a large, level field surrounded by well-maintained hedges. Looking north from the footpath that passes the access gate, the openness of the field, with a backdrop of trees beyond, can be appreciated. The only other built development that is readily visible in these views is a telecommunications mast, which is well-screened by trees, and the former agricultural buildings at Oak Tree Farm, which lie close to the eastern boundary. The partition of the field, and the construction of buildings and structures over an extensive area, would have a significant impact on the contribution that the site makes to the visual openness of this part of the Green Belt.
16. The main shooting club building would be sited close to those at Oak Tree Farm, and it has been designed to resemble an agricultural building. However, this would do little to mitigate the impact on openness from this viewpoint. The Oak Tree Farm buildings are separated from the undeveloped field by the boundary hedgerow, so the new building would appear as an encroachment into the open, undeveloped field. Furthermore, the building would be surrounded by car-parking, chain link fencing, the backstop wall, bund, and all the other shooting paraphernalia. It would not therefore appear to be an integral feature of the surrounding open agricultural landscape.
17. The field is, itself, surrounded by undeveloped agricultural land. The topography in the area is generally level, and the hedgerows are quite low, so that the sense of openness is readily apparent from the network of footpaths in the locality. This is not diminished, to any great extent, by the presence of a few isolated agricultural buildings. The development would be visible from various points along Gays Lane to the east, which was well-used by walkers at the time of my visit. Whilst the main building would be viewed in association with the Oak Tree Farm buildings from some points, the backstop wall would be a more isolated feature that would intrude into the otherwise uninterrupted views across the site to the open land to the west.
18. The development would also be seen in views from the footpaths through the fields to the south and west of the site. From a point to the south, where two footpaths join Forest Green, the site can be seen in a wide vista of largely open land. Whilst the Oak Tree Farm buildings are also apparent in this view, the development would be spread over a large area, so would appear as a noticeable encroachment into the open countryside to the west, rather than as a minor addition to the existing group of buildings.
19. The development would, therefore, involve the provision of buildings of a significant scale where there are currently none. These would be widely visible from surrounding footpaths, resulting in harm to the visual openness of the Green Belt. Furthermore, the development would encroach into open countryside. As a result, the proposal would not preserve the openness of the Green Belt, and would conflict with one of the purposes of including land within

¹ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

it. In view of the scale of the buildings, their spread, and their visibility from a wide area, the harm to the openness of the Green Belt would be demonstrable.

20. In coming to this conclusion, I am mindful that MTSC's previous site at Braywick Park was also in the Green Belt. It could therefore be argued that the relocation of the facility from one site to another would result in no net harm to the openness of the Green Belt as a whole. However, the previous site was much more closely related to the built-up area of the town, so did not make a similar contribution to the visual openness of the Green Belt. In any event, I saw that a large two-storey building is nearing completion on the previous site, so there has not been an increase in openness to set against the harm caused at the appeal site. The proposal would, therefore, be inappropriate development that should not be approved except in very special circumstances.

Other Considerations

21. The evidence indicates that the decision to grant planning permission for a school and Multi Use Games Area at Braywick Park was not dependent on an alternative site being found for MTSC. Rather, it was considered that, despite the conflict with paragraph 97 of the Framework in this regard, the loss of the club facilities was outweighed by the benefit of the proposed development. It is common ground that the Council was not able to suggest any other suitable and available alternative sites which the Club could move to. However, there was no statutory requirement for the Council to do so. Therefore, I give little weight in my decision to the circumstances surrounding the loss of the previous facility.
22. Since being advised in 2016 that its lease at Braywick Park would not be renewed, MTSC has been unsuccessful in identifying an alternative site. A total of 26 have been investigated, but most have been rejected due to lack of response from site owners. Others have proved unsuitable due to lack of security of tenure, or high rent. As a not-for-profit club proposing a substantial investment, these are pertinent matters in site selection, so do not reduce the weight I give to the unsuitability of those sites. The tightly drawn area of search may have limited the potential to find suitable sites further afield, but it reflects the club's desire to remain in the local area. Furthermore, evidence to support the reasons for rejection of sites is lacking in detail. Nevertheless, it has been demonstrated that the appellants have carried out a concerted effort to find an alternative site without success.
23. As a result, members of the MTSC are unable to participate in their sport in the local area. Although there are several other shooting clubs in the wider area, none provide comparable facilities to those that were previously available at Braywick Park. In particular, none have a 100-metre range. In order to access facilities of a similar standard, members must travel to Worplesdon, which is about 22 miles to the south of the previous site. Suitable alternative facilities are not, therefore, readily accessible to members.
24. The Framework aims to enable and support healthy lifestyles through the provision of safe and accessible sports facilities, and encourages local planning authorities to plan positively to provide opportunities for outdoor sport in Green Belts. It has been demonstrated that, at its previous site, MTSC provided high quality shooting facilities for a wide range of people, including local Scout troops, and operated in partnership with Sportable and as a Disability Hub Club. I have read and heard compelling testimony about the benefits of the

club to the health and wellbeing of its members, many of whom are from the immediate locality. Furthermore, Sport England has commented that the proposal addresses an identified need for this facility type, and has the potential to be of benefit to the development of shooting.

25. Therefore, the sporting and community benefits of replicating the previous facility in an accessible location, and the lack of identified alternative sites, is a consideration that carries significant weight in my decision.

Other Matters

26. In reaching my decision, I have had regard to the numerous representations made in writing, and at the hearing, regarding a range of other issues.
27. A significant number of these referred to the potential for noise from the shooting activity to affect the tranquillity of the area, or to spook horses on the bridleway. However, the application was accompanied by an expert Noise Report, which concluded that the worst-case shooting noise level, at the nearest residential property, would be below the lowest observed adverse effect level referred to in the Noise Policy Statement for England. An independent noise report challenged these findings, but after witnessing the actual noise of the rifles being fired at the site, the Council's Environmental Protection Officer concluded that there would not be a harmful impact. I give significant weight to the Officer's observations, and conclude that the proposal would not lead to harmful levels of noise.
28. An expert Transport Statement was submitted with the application, which concluded that the level of traffic generated by the use would not have an unacceptable impact on highway safety, and that 15 car-parking spaces would be suitable to serve the facility. The Highway Authority raised no objections to the proposal. Concerns were raised at the hearing that satellite navigation systems may direct drivers to attempt to access the site via Langworthy Lane. However, as the facility would primarily be used by club members, it is unlikely that this would be a regular occurrence. There is, therefore, no compelling evidence to demonstrate that the development would have an unacceptable impact on highway safety.
29. The application was accompanied by an Ecological Appraisal and a Great Crested Newts survey. The Council's Ecology Officer concluded that any adverse effect on protected species could be mitigated. Had I been minded to allow the appeal, conditions could have been imposed to ensure that there was no harm to biodiversity.
30. A Flood Risk Assessment and sustainable drainage system strategy were submitted with the application. The Lead Local Flood Authority has raised no objection to the proposal, provided an appropriate surface water drainage system, based on the submitted drainage strategy, is provided. Therefore, had I been minded to allow the appeal, I could have imposed a suitable condition to ensure that the development did not lead to any increase in flood risk.

The Green Belt balance

31. I have found that the proposal would be inappropriate development in the Green Belt, which would cause demonstrable harm to its openness, and would conflict with one of the purposes of including land within it. Paragraph 144 of the Framework requires that I should attribute substantial weight to any harm

to the Green Belt in my decision, and that very special circumstances will not exist unless this harm is clearly outweighed by other considerations.

32. The absence of harm from the impacts of noise, traffic and flooding is a neutral factor in the overall balance, as is the lack of harm to biodiversity.
33. I have given significant weight to the sporting and community benefits of the development, the difficulties encountered in finding a suitable alternative site, and the lack of accessible alternative facilities. However, they do not clearly outweigh the demonstrable harm that would be caused to the openness of the Green Belt, and the substantial weight that this harm attracts. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would, therefore, be contrary to the aim of the Framework to protect Green Belt land, and would conflict with Policies GB1 and GB2 of the Local Plan, where they are consistent with the Framework.

Conclusion

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

Nick Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Randle (4-5 Gray's Inn Square) – Counsel
Martin Bicknell (Chairman, MTSC) – Appellant
Simon Hamilton – MTSC
Jack Spence – (JCE Planning & Architectural Consultancy) – Agent
Jeffrey Emmett – (JCE Planning & Architectural Consultancy) – Agent

FOR THE LOCAL PLANNING AUTHORITY:

Briony Franklin – Senior Planning Officer, Council of the Royal Borough of Windsor and Maidenhead
Susan Sharman – Principal Planning Officer, Council of the Royal Borough of Windsor and Maidenhead
Natasha Doughty – Planning Support Officer, Council of the Royal Borough of Windsor and Maidenhead

INTERESTED PERSONS:

Matthew Harper – MTSC member
Andy Lennarz – MTSC member
Peter Lerner – On behalf of Bray Parish Council
Cllr Louvaine Kneen – Bray Parish Council

Mr A J Breakspear – Local resident
Sally Halfacre – Local resident
Gill Hudson – Local resident
Mr Richard Pryer – Local resident
Phil Hodgkinson - Local Resident
Tony Max - Local Resident
Jacquie Daly - Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Two maps and an extract from an equine consultant's report submitted by Mr A J Breakspear
2. Photographs of previous shooting range at Braywick Park submitted by Jack Spence