
Appeal Decisions

Hearing Held on 20 April 2021

Site visit made on 21 April 2021

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2021

Appeal Ref: APP/P0240/C/20/3256899 (Appeal A)

Land at Mount Pleasant Golf Course, Station Road, Lower Stondon, Henlow SG16 6JL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr G Simkins, Mount Pleasant Golf Club, against an enforcement notice issued by Central Bedfordshire Council.
- The enforcement notice, numbered CB/EN/19/0492, was issued on 29 June 2020.
- The breach of planning control as alleged in the notice is: Without planning permission, the carrying out of engineering operations to increase land levels and the re-contouring of the land including the importation of inert waste and soils in non-compliance with the terms of the planning permissions CB/15/01454/MW, CB/17/04034/MW and CB/18/04203/MW for 'a 9 hole extension to existing golf course incorporating landscaping works and water harvesting system' on land shown edged red on the attached plan, ('the land').
- The requirements of the notice are:
 1. To carry out engineering operations to remove soils and carry out regrading works on the Land in accordance with Condition no.1 of permission CB/18/04203/MWS. All the relevant plans are attached to this Notice in Appendix LPA1.
 2. The vehicular access onto the Land shall only be by way of the temporary access off Station Road as shown on the "Contractors Works Plan" in Appendix LPA1.
 3. No operations required under this notice shall take place within a five metre radius of the World War II pill box heritage asset. Temporary security fencing shall be placed around the heritage asset at this distance throughout the period when regrading works in the immediate vicinity of the heritage asset take place.
 4. No operations required under this notice shall be carried out except between the following times: 08:00 – 19:00 hours Mondays to Fridays, 08:00 – 13:00 hours Saturday And no operations shall be carried out on Sundays, Bank or Public Holidays.
 5. The number of HGV* movements into/out of the Land from the Station Road temporary access shall be limited to a maximum in any one day of 182 (pro rata for part days) and, other than during local school holidays, there shall be no more than a maximum of 14 movements per hour during the peaks of 08:15 to 09:15 and 15:15 to 16:15 Monday - Friday. (*All vehicles over 7.5 tonnes gross vehicle weight).
 6. The CCTV installation provided in accordance with the scheme submitted under application CB/15/03627/MWS and approved in writing by the Local Planning Authority on the 29th October 2015 and attached to this notice in Appendix LPA1 shall be maintained and operated in accordance with the agreed scheme throughout the duration of operations.
 7. The engineering operations shall be carried out in accordance with the Construction Traffic Management Plan (CTMP) dated September 2015 (Hydrock

Ref: C134446/T002) which was approved in writing by the Local Planning Authority on the 29th October 2015 pursuant to application number CB/15/03628/MWS and attached to this Notice in Appendix LPA1.

8. Noise Levels: Except for temporary operations, the free field Equivalent Continuous Noise Level LAeq, 1hr, due to operations on the site, shall not exceed 55dB LAeq 1hr, when measured at the boundary of any residential dwelling. For temporary operations such as soil and overburden stripping, screening, bund formation and removal and final restoration the free field noise level due to work at the nearest point to each dwelling shall not exceed 70dB LAeq 1hr, when measured at the boundary of any residential dwelling. Temporary operations shall not exceed a total of eight weeks.
 - The period for compliance with the requirements is:
In respect of requirement (3) the engineering operations in the World War II pill box area within a period of Three months from the date this notice takes effect.
In respect of requirements (1)(2) and (4)-(8) inclusive Twelve calendar months from the date when this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Appeal Ref: APP/P0240/W/21/3267320 (Appeal B)

Land at Mount Pleasant Golf Course, Station Road, Lower Stondon, Henlow SG16 6JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jonathan Snellgrove, Oakland Golf and Leisure Limited, against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/01680/MW, dated 3 June 2020, was refused by notice dated 13 November 2020.
 - The application sought planning permission for 9 hole extension to existing golf course through the importation of inert waste, incorporating landscaping works and water harvesting system without complying with a condition attached to planning permission Ref CB/18/04203/MW, dated 17 December 2018.
 - The condition in dispute is No 1 which states that:
Planning permission shall extend to the area edged with a thick black line on the attached plan no CB/17/04034/MW-1. The development shall be carried out in accordance with the following documents:
 - The original planning application CB/15/0145/MW validated on 23 April 2015,
 - The Transport Statement received on 15 May 2015,
 - An email dated 10 June 2015
 - Grading Plan 1136.02 Rev A
 - Landscape Plan no. 1136.03 Rev. B
 - Cross Sections 1136.04 Rev A
 - Contractors Works Plan 1136.05 Rev A
 - Water Harvesting Plan no. 1136.07 Rev B
 - Phasing Plan no. 1136.08 Rev B
 - The modifications included in application no CB/17/04034/MW validated on 23 August 2017 and subsequent emails from the agent dated 29 September and 16 October 2017.
 - The reason given for the condition is: To define the permission.
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DECISIONS

Appeal A Ref: APP/P0240/C/20/3256899

1. The enforcement notice is quashed.

Appeal B Ref: APP/P0240/W/21/3267320

2. The appeal is dismissed.

REASONS

Background to the Appeals

Appeal sites

3. Mount Pleasant Golf Course was established in 1992 as a 9 hole golf course, with an informal practice area, clubhouse and shop and a car park accessed from Station Road, Lower Stondon. The appeal sites are adjacent to the north east boundary of the original golf course.
4. Over the period from around 2013 to 2020 residential development was carried out on land behind the frontage housing along Station Road. The new housing is accessed via Redwing Croft and extends westwards along Woodpecker Mead and around associated culs-de-sac. The existing course and the appeal sites are now largely enclosed by housing.

Planning history

5. In July 2015 planning permission was granted for a 9 hole extension to the golf course onto an adjacent area of agricultural land to the north east. The development involved the importation of inert waste, landscaping works and a water harvesting system (ref CB/15/01454/MW). The permission was subject to 34 planning conditions (the 2015 permission). It is common ground between the main parties that all pre-commencement conditions were discharged.
6. The development of the site commenced in October 2016 with enabling works including formation of a temporary vehicular access for construction purposes, building a haul road and establishing a construction compound. The importation of material to construct the course commenced in May 2017.
7. As development progressed application was made to vary the details of the phasing and to allow for minor changes to operational matters (ref CB/17/04034/MW). On 18 October 2017 planning permission was granted for the 9 hole extension site with conditions 1 and 6 varied and approving matters pursuant to conditions 7, 9, 13, 26 and 29 of the 2015 permission (the 2017 permission).
8. A further planning application was made in 2018 to allow for a 6 months extension of time for the importation of materials and the contouring of the land to take place (ref CB/18/04203/MWS). The relevant planning conditions (3 and 4) attached to the 2017 permission were varied and a new planning permission granted on 17 December 2018 (the 2018 permission). This planning permission is now the relevant permission controlling the golf course development, a position accepted by the appellants and the Council.

APPEAL A

Enforcement notice

9. The enforcement notice states in paragraph 1 that it appears there has been a breach of planning control under paragraph (a) of section 171A(1) of the Town and Country Planning Act 1990 as amended (the 1990 Act). It follows that the alleged breach is the carrying out of development without the required planning permission.
10. The description of the alleged breach of planning control in paragraph 3 includes reference to "non-compliance with the terms of the planning permissions CB/15/01454/MW, CB/17/04034/MW and CB/18/04203/MW". In the period before the hearing I questioned whether the alleged breach falls within paragraph (b) of section 171A(1) of the 1990 Act, that is failing to comply with any condition or limitation subject to which planning permission has been granted¹.
11. In its written response the Council accepted, as a matter of consistency, the notice should have been issued under section 171A(1)(b) of the 1990 Act and considered the notice could be corrected without injustice. The appellant argued that such a correction would cause injustice because the appeal, including the ground (a) appeal, was in response to the alleged carrying out of development without the required planning permission. Following discussion with the main parties at the hearing, when the Council argued that the development over the site as a whole departed substantially from that approved, I decided that no corrections should be made to the notice in this respect.
12. The Land identified by the notice extends over the main body of the extension site but does not include the spur around proposed tee 2, which lies to the south but which is included within the area granted planning permission. The Council confirmed that the Land was correctly drawn because the alleged breach did not apply to the smaller area.
13. The notice was served on several people associated with Mount Pleasant Golf Course and also on Messrs Boyle, who own a parcel of land fronting Station Road adjacent to number 104. The Land Registry document indicates the sale of land took place in May/June 2016, although at the hearing Mr Boyle maintained the land was sold to him in 2013.

Grounds of appeal

14. The appeal was made on grounds (a), (c) and (f). The day before the hearing the appellant submitted that the notice is a nullity and at the hearing indicated that additionally an appeal on ground (b) is for consideration, linked to the nullity argument.
15. The case on nullity was based mainly on the lack of specificity of the wording of the notice. The appellant stated that it is not clear on the face of the notice precisely what the appellant has done wrong and what is required to be done. The notice failed the *Miller Mead* test. In addition, the requirements purport to impose new 'conditions' on how the development is carried out.

¹ Inspector's Initial Questions dated 18 March 2021

16. Under section 172(1) of the 1990 Act a local planning authority may issue an enforcement notice when it appears to them that there has been a breach of planning control and it is considered expedient to do so. There is no statutory requirement to state the precise nature of the alleged breach of planning control, although as stated in the *Miller Mead* test² the notice should tell the recipient fairly what he has done wrong.
17. The description of the alleged breach is directed at the carrying out of engineering operations to increase land levels and the re-contouring of the land, including the importation of inert waste and soils. These operations are stated not to be in accordance with the 2015, 2017 and 2018 permissions. The Reasons for issuing the notice state that the change in the height of the landform and the re-alignment of the contours has not been carried out in accordance with approved plans. The general unauthorised increase in height in the landforms is given as about 2 metres, 100% more than the approved levels. Attention is drawn to the excessively high steep embankments along the north eastern boundary and the formation of a deep hollow around the World War II pillbox, enclosed by high embankments.
18. The appellant in the grounds of appeal, statement of case and final comments did not claim that the notice was hopelessly ambiguous or uncertain or that there was a lack of understanding on what the notice was about. I consider that there is sufficient information to enable the recipient to know what matters the local planning authority considers to constitute the breach of planning control and to fulfil the statutory requirements. The dispute over whether the alleged breach occurred as a matter of fact, related to the case that no breach of planning control had taken place, are matters for determination through the ground (c) and late ground (b) appeals.
19. An enforcement notice has to specify the steps which the authority require to be taken to achieve, wholly or partly, the purpose of the notice by either remedying the breach or remedying any injury to amenity³. The requirements set out in paragraph 5 of the notice focus on (i) the carrying out of regrading works in order that the development is in accordance with the plans approved through the 2018 permission, and (ii) specifying operational requirements during the period the restoration works are carried out. The relevant approved plans are listed in an appendix and the operational requirements reflect the detailed controls imposed through planning conditions on the 2018 permission.
20. In my opinion the requirements are specific and leave no doubt what remedies the local planning authority are seeking. The steps are consistent with the description of the alleged breach and the reasons for issuing the notice. The ground (f) appeal is the appropriate mechanism for setting out a case that the steps required to be taken exceed what is necessary to remedy the breach. The Council's submissions on legal matters⁴ accepted that requirements 2 to 8 arguably are not necessary on the face of the notice because they are already regulated through other means in the 2018 permission and in schemes approved through the 2015 permission.

² *Miller Mead v MHLG* [1963] 2WLR

³ The detailed wording is set out in sections 173(3) and 173(4) of the 1990 Act.

⁴ Submitted in accordance with a timetable agreed at the hearing

21. The notice includes all necessary elements set out in section 173 of the 1990 Act and Regulation 4 of the Regulations⁵ and the appellant did not seek to argue otherwise. In conclusion, the enforcement notice meets the statutory requirements and the *Miller Mead* test and is not a nullity.
22. Whether it was expedient for the local planning authority to issue the notice is not a matter for my consideration in determining the appeal⁶.

Grounds (b) and (c)

23. In legal grounds of appeal the onus is on the appellant to prove his case and the standard of proof is the balance of probability.

Ground (b)

24. Ground (b) is that the matters alleged in the breach of planning control have not occurred as a matter of fact.
25. Before development commenced the Land was a gently undulating agricultural field. On the appellant's evidence around 305,392 m³ of inert soil was imported onto the site over a two year period, representing a reduction of 21,608 m³ on the original calculation of 327,000 m³ of material required⁷. The Council does not dispute the figure for imported soil, after having had the benefit of seeing the appellant's detailed evidence.
26. Operations were carried out over three phases, working from east to west. The appellant undertook a drone survey in October 2018 to support the application to vary conditions 3 and 4 of the 2018 permission. A later topographic survey was carried out on behalf of the Council (which I will refer to as the WH survey). The WH survey demonstrated the increase in land levels and the new contours of the land through the formation of mounds, level areas and depressions in order to create a golf course extension. The appellants confirmed that they did not dispute the accuracy of the survey information⁸. The resultant landforms are now part of the local landscape.
27. There is no doubt that engineering operations were carried out to increase land levels and to re-contour the land, and those operations included the importation of inert materials and soils. The purpose of the works was to create an extension to the golf course. The matters described in the allegation have taken place. A case on ground (b) has not been substantiated. As to whether the development has taken place without the necessary planning permission or other form of planning approval is a matter for consideration under the ground (c) appeal.

Ground (c)

28. Ground (c) is that those matters (if they occurred) do not constitute a breach of planning control.
29. A key element of the appellant's case on ground (c) is that the development is within the scope of the permission granted. More specifically, works undertaken

⁵ The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

⁶ *Britannia Assets v SSCLG & Medway Council* [2011] EWHC 1908 (Admin)

⁷ Materials Management Verification Report February 2020

⁸ Response to Inspector's Initial Questions March 2021

in phases 1 and 2 received approval from the local planning authority. Consequently phases 1 and 2 and the development carried out is lawful and should not be the subject of enforcement action. A legitimate expectation has arisen, which the Council should be held to.

30. As a starting point, before any development took place the land of the extension site sloped gently down from a higher level near the Station Road boundary (62 m contour) to the boundary with the allotments to the east (53 m contour). The existing site survey information ought to be reasonably reliable and the survey evidence from the Council suggests that is so.
31. Under the 2018 permission, the approved grading plan indicates a gentle fall from west to east. Within this overall fall there would be variation of levels and landforms within the site to create the new tees, greens, lakes and other features. The higher levels would be towards the Station Road boundary (maximum 62m contour) and the steeper slopes were proposed around the new water features. There were no pronounced knolls or mounds.
32. The amount of material imported onto the site (305,392 m³) has been shown to be generally consistent with the permitted quantity (approximately 300,000 m³ is stated on the 2015 decision notice) but it does not necessarily follow that the as built development is in accordance with the approved plans. The critical factor is how the material has been distributed and shaped into new landforms within and across the site. The Council's case was not reliant on excessive amounts of material being used in the development.
33. The appellant acknowledged that the As Built plan shows some areas where there is a discrepancy between approved levels and as built levels and departures in the steepness of gradients. The more significant areas of change identified include along the northern boundary, along the boundary with Station Road and around hole 3. The appellant nevertheless maintained that the extension course is essentially built to the approved levels, noting the average lift of the site is the same as approved, construction to approved levels is not an exact science and no material change of view or landscape character has occurred.
34. Having looked in detail at the sets of plans I consider that the As Built plan shows an increase in levels generally across the site when compared to those approved. Water features show differences in size and shape, especially P2, P3, P5 and to a lesser extent P4, P6 and P1. The less extensive water feature P2 has resulted in a significant difference in levels on the boundary with the existing golf course. Along the Station Road frontage area the contours and levels show the formation of a series of higher pimples, as opposed to an area of more uniform level on the approved plan. A steep slope has been formed in the corner adjacent to the land parcel in separate ownership. In the area between the water features P1 and P2 the contours display variation of levels whereas on the approved grading plan there is a more regular decrease in land levels. The comparative sections submitted by the appellant also illustrate the significant differences between the as built and approved grading (for example cross section G-G Station Road and sections at the boundary with the new housing).
35. The Council's description and assessment more accurately reflects the current position. The WH survey shows that there were some significant increases in the height of the landforms compared to the approved levels and the

contouring was at variance to the approved plan, especially close to the north-west boundary and the neighbouring new residential development. An isopachyte map produced by the Council is helpful in illustrating the level changes and highlights the more significant and concentrated differences occur in the phase 3 area. There are places near the P2 water feature that show an increase in levels of up to 6 metres and also places in the north east corner that show a decrease in levels of up to 4 m.

36. I conclude that the differences in the as built levels, grading and contours from those approved are significant and not within the bounds of a reasonable tolerance.
37. On a more specific area, it is a matter of fact that the rectangular shaped parcel of land adjacent to 104 Station Road was included within the red line of the application site of the 2015, 2017 and 2018 permissions. The approved plans show the land would be necessary to accommodate the proposed grading in this corner of the course and to form part of the landscaped areas. However, the engineering operations in phase 3 did not extend onto this land parcel and land has been formed into a steep embankment along the ownership boundary. The appellant accepted that the completed works in this area of the golf course do not comply with the approved scheme and a planning application supported by amended plans was made to regularise the position (Appeal B).
38. My initial conclusion is that the development is not in accordance with the set of plans approved through the 2018 permission, as set out in condition 1. Whilst there are similarities in the course layout, the topographic differences identified are substantial. However, the decision notice at condition 6 states: "This condition originally related to phasing and is no longer relevant as operations are now taking place in the last phase." Referring back to the planning history, condition 6 in the 2017 permission required operations to accord with phasing plan no. 1136.08 Rev B. The condition also required entry to phase 3 to be subject to written agreement from the local planning authority, which in turn was dependent on the submission of a topographic survey demonstrating that phases 1 and 2 had been shaped in accordance with the contours on the approved grading plan no. 1136.02 Rev A. A similarly worded condition was imposed on the 2015 permission, citing earlier versions of the phasing and grading plans.
39. Therefore in order to proceed to phase 3, the grading of phases 1 and 2 had to be shown to be in accordance with the relevant approved plans. There is no other document confirming compliance with and discharge of condition 6 apart from the 2018 decision notice granting planning permission. Nevertheless, the decision notice confirms the up to date position on carrying out the development, the ability to proceed with phase 3 and the requirements to be met in doing so. It follows that the grading of phases 1 and 2 was acceptable. A decision notice is a formal decision issued by the Council and should be able to be relied on as such.
40. This is not an instance where a judgement or expressed opinion of an individual officer is the only confirmation of the acceptability of the works, although the officer report on the 2018 application assists in understanding the decision to 'delete' requirements of condition 6 in the new decision notice. The report explained that the principle of development was accepted by the 2015 permission and that the outstanding issue was the additional time to complete

the works already approved. The report noted that an earlier planning application was withdrawn because at that stage much of the first two phases appeared to be above the permitted height as there were extensive stockpiles awaiting regrading. However, following discussions with the operator "final grading has been carried out on phases one and two, which are now in general conformity with the approved contours....". This conclusion appears to have taken into account the findings of a detailed drone survey of the completed areas to check the levels and of the remaining void space.

41. I conclude that the 2018 decision notice provides confirmation that there was compliance with condition 6 on the 2017 permission and that phases 1 and 2 were shaped in accordance with the contours shown on grading plan no. 1136.02 Rev A. There is no evidence that works were carried out to phases 1 and 2 at a later date which resulted in the contours being changed. The appellant's legal submissions also confirm that is the case. For these reasons no breach of planning control has occurred in respect of phases 1 and 2. To this extent the appeal on ground (c) succeeds. In coming to this conclusion I have had regard to the legal submissions by both main parties on legitimate expectation but I do not need to explore this matter in any detail in view of the 2018 decision notice in so far as it relates to phases 1 and 2.
42. Over the phase 3 area I have concluded that the as built contouring and grading shows substantial variation when compared to the levels shown on the approved plans. In addition, the extension area has been reduced through the omission of the parcel of land owned by Messrs Boyle. As a matter of fact and degree the changes are sufficient to constitute a breach of planning control.
43. In view of these findings I have considered whether the enforcement notice may be varied to focus only on the phase 3 area. The breach more appropriately would be in the form of non-compliance with condition 1 in so far as the development on phase 3 has not been carried out in accordance with approved plans. However, the decision to take enforcement action was on the basis that the development of the golf course extension as a whole was unauthorised. The parties would have no opportunity to consider and address the corrected wording. Both parties approached the ground (a) appeal and the deemed planning application on that understanding of the notice. I am not satisfied the notice could be varied without causing injustice.
44. For the reasons given above I conclude that the appeal should succeed on ground (c) and that the enforcement notice should be quashed. In these circumstances the appeal under the grounds (a) and (f) set out in section 174(2) to the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

APPEAL B

The Proposal

45. The planning application was made to vary condition 1 attached to the 2018 permission⁹. The application site plan encompasses all the site of the course extension, consistent with the site plan for the 2018 permission. The

⁹ The wording of condition 1 is set out in the bullet points with details of Appeal B (see page 2 above)

application form set out the wording of the proposed amended condition. A further amendment to the wording was made that took into account additional plans submitted during the course of the appeal regarding flood protection and included reference to details of a temporary construction access and a scheme of heritage asset resource management. The amendments raised no new matter for the local planning authority and I will base my decision on this amended set of plans and documents.

46. The appellant explained¹⁰ that a parcel of land in the north-east corner of the golf course site¹¹ is no longer in the ownership of the golf course. In order to resolve the issue the proposal is to regrade the area on the ownership boundary by removing 1,433 m³ of material from the site. The appellant maintained that the layout of the as built course, tees, green and fairways is in accordance with the approved scheme and that the alterations proposed would regularise changes as a result of the change in ownership. The application is said to only relate to the phase 3 area.
47. In the event the appeal is successful planning permission would be for the 9 hole golf course extension with a new set of conditions, including a varied condition 1. Having reviewed the documents and plans, I consider that the proposed new operational development is the regrading of the embankments to the land parcel¹². However, over the rest of the site the contours on the location of grading plan are as built, as per the WH survey details March 2020. In effect a planning permission would approve retrospectively existing levels, grading and course features. My conclusion is consistent with that of the Council.
48. I have concluded in Appeal A that the as built levels and topography in phases 1 and 2 have been approved and do not constitute a breach of planning control. Therefore I will focus attention of the acceptability of phase 3, including the proposed regrading of the embankment. Additional amendments to grading put forward in the ground (a)/deemed planning application are not for consideration. The relevant comparison is with the approved development for the golf course extension rather than the former agricultural fields.

Main issues

49. The Council refused planning permission for four reasons related to the effects on landscape character, potential flooding off site, the significance of a World War Two pillbox and residential amenity. During the appeal process the appellant submitted additional information and assessments. As a result the Council's concerns regarding the pillbox and drainage were largely resolved.
50. The main issues centre on the effect of the development on:
 - the appearance and landscape character of the golf course and the local distinctiveness of the surrounding area, and

¹⁰ Appellant's appeal planning statement and appeal final comments.

¹¹ In appeal documents the parcel of land is described as being in the north east corner of the golf course site and in the north west corner of the golf course site, probably because of the shape of the site. The references are to the same land parcel adjacent to 104 Station Road.

¹² The inset plans show the location of the proposed grading work on the western and southern boundary to the land parcel adjacent to 104 Station Road, with further details on the proposed works shown on the volumetrics plan, the cross sections and the inset landscaping plan.

- the residential amenity of nearby residents in respect of the effect on privacy.

Planning Policy

51. The development plan includes the Bedfordshire and Luton Minerals Waste Local Plan adopted in January 2005 (saved policies) (the MWLP), the Minerals and Waste Local Plan: Strategic Sites and Policies adopted in 2014 (the MMLP SSP) and the Core Strategy and Development Management Policies November 2009 (the CSDMP).
52. A new Central Bedfordshire Local Plan 2035 is at an advanced stage. Reference has been made to Policy EE14 in the emerging plan but this policy concerns applications for minerals and waste development and I question its applicability to the proposed development. I intend to rely on the relevant adopted policies.
53. The National Planning Policy Framework (the Framework) is a material consideration.

Landscape character

54. With reference to the development plan in the CSDMP Policy DM3: High Quality Development requires development to be appropriate in scale and design to its setting, to contribute positively to creating a sense of place and to respect local distinctiveness through design and use of materials. Policy DM14: Landscape and Woodland Policy attaches a level of protection to landscape in a manner commensurate with its status and sensitivity. Policy GE 9 of the MWLP requires development proposals to be sympathetic to local landscape character.
55. The Framework identifies the importance of achieving well designed spaces by ensuring developments function well and add to the quality of the area, are visually attractive, sympathetic to local character and history and maintain a strong sense of place. Looked at in the round the development plan policies most relevant to the proposal are consistent with the Framework.
56. The site is within the wider clay vale landscape. Longer distance views to the Barton Hills emphasise the open countryside character and gently undulating topography.
57. Mount Pleasant is categorised as a Parkland course, typically characterised by clayey soils on former low quality farmland or within formal parks with deciduous trees. I noted on my site visit that the existing golf course is gently undulating with groups of mature trees. The stated design concept for the approved development was to create an interesting, undulating and attractive course for the golfer, with a focus on water management and enhancement of the landscape, sustainable in consumption of resources and environmentally conscious. The Design and Access Statement referred to the layout and planting being designed to maintain an open character of the area. The topography would be reshaped into gentle swales and ridges to define the golf holes and additional interest to the course. The proposed topography would be of broad gentle folds as opposed to prominent knolls that would be incongruous in the landscape. I consider the design concept and the design objectives are well suited to guiding the development and ensuring the extension to the course complies with policy objectives.

58. As built the topography of the phase 3 area incorporates steep gradients and numerous mounds or pimples. The gently undulating parkland character has not been continued through into the extension. The treatment of the land parcel adjacent to no.104 has been neglected and is enclosed on two sides by steep embankments. Whilst in golfing terms the course may be of a high quality and standard there has been significant departure from the approved levels and grading, as indicated in consideration of the ground (c) appeal (Appeal A). The approved design aims particular to this course and location have not been successfully achieved to the detriment of the local landscape character.
59. The current proposal would soften the profile of the embankments to the land parcel by removal of material and regrading. Instead of a wildflower area with tree planting near the site boundary shown on the approved landscaping plan, there are no proposals for the land parcel itself. The tree planting would extend along the newly formed slope and in effect cut off the land parcel from the golf course. The proposals would not successfully resolve the treatment of the land parcel and as such could not be approved. No proposals are put forward for the remainder of the phase 3 area and hence the adverse impact on landscape character would remain.
60. The main views of the golf course extension from the public realm are from Station Road. Station Road is a well used pedestrian route and provides a link between the new housing areas and facilities in Lower Stondon, including the Lower School. A row of street trees follows the highway boundary but they do not obscure views over the course, even in the summer months. On the north side of the road a field creates a gap in the frontage housing and provides views north to the countryside beyond. This view complements and is reinforced by the views over the golf course towards the countryside and distant hills to the south.
61. The evidence confirms that the approved scheme provides for a gentle transition of slopes and levels into the site. The views are now dominated by highly modified landforms and pronounced knolls. The appellant's landscape architect acknowledged that the mounds near Station Road are not in line with the original designs and that he would have recommended a less repetitive symmetrical form. Further into the site a series of ridges and steepish slopes are visible, which too depart from and contrast with the gentle swales and ridges described in the approved scheme. Along the Station Road frontage there are still glimpses of the longer distance views, as well as of the rooftops of the surrounding housing and other reference features, but the over-prominent knolls are incongruous features.
62. The views from the western end of Woodpecker Mead and Skylark Field also are dominated by higher mounds with steeper slopes. The appellant's comparative cross sections are helpful in demonstrating the scale of change. A gentler profile as in the approved scheme would have been more visually attractive and in keeping with the identity of the landscape and the landscaped edge of the residential development.
63. In phase 3 the approved landscape plan provides for areas of new tree planting, including specimen trees and wildflower areas between the fairways, near the site boundaries and on the Station Road frontage. With the exception of the inset for the corner land parcel no amended landscape details are

proposed on an amended base plan that reflects the changes in levels and gradients. I have concern that the tree planting appropriate to the approved topography would not necessarily be suited to the as built landforms. I agree with the Council that structure planting on top of highly contoured elevated landforms would be visually out of keeping and increase perception of the differences in levels. In summary, the proposed landscaping does not satisfactorily resolve or mitigate the proposal and there is inconsistency between the landscaping plan and the grading plan for the appeal proposal.

64. Having taken account of the detailed commentaries by the main parties I conclude that development proposals as shown on the submitted plans would not be sympathetic to local landscape character and would harm rather than add to the visual quality of the area. There is conflict with CSDMP Policies DM3 and DM14 and Policy GE 9 of the MWLP and with the identified relevant policies in the Framework.

Residential amenity

65. New housing now extends along the northern boundaries of the extended golf course, including housing at the end of Woodpecker Mead and in a series of culs-de-sac, including Skylark Field, Sparrow Gardens, Swallow View and Goldfinch Place.
66. At the western end of Woodpecker Mead and Skylark Field some of the two storey houses face towards the golf course but they are set back and separated from the boundary to the course by vehicular access and parking areas. Much of the boundary in this area is defined by a mature hedgerow that would feature in the outlook from ground floor windows and provide a screening effect in any views from the golf course. The appellant's comparative cross sections assist in illustrating the relationship between the golf course and first floor windows. Any views by golfers from the nearest mounding on the golf course towards the upper floor windows would vary depending on the position of the golfer on the course, height of the land and angle of view. Given the positioning of the houses and the separation relative to the course I consider there would be no harmful loss of privacy.
67. Similar considerations are evident with the houses that face towards the northern boundary of the course. The separation distance created by the circulation areas is an important factor in mitigating any adverse impact on amenity. Whilst there is some variation in the heights of the facing slopes I conclude that no harmful loss of privacy would occur.
68. One house that has a different relationship to the course is sited on a plot near tee 6 and close to the boundary between phases 2 and 3 of the ground works. Garden space extends up to the boundary with the course and at this point the higher levels on the course are very evident. I consider the relationship is not well designed to protect the privacy, actual and perceived, of residential occupiers. However, the approved plans allow for a similar course layout on this part of the course and the isopachyte plan shows the change in levels in the as built development has been at the lower end of the spectrum.
69. The changes from the approved levels and topography are very significant near to Station Road. However the houses opposite this part of the course are generally set back within their plots and front onto a busy highway linking the village to the A600 Bedford Road. The effect of the development on privacy

would not be significant, although for these older houses the outlook has not changed for the better.

70. In conclusion the development respects the amenity of nearby residential properties in terms of privacy and on this matter there is compliance with Policy DM3 the CSDMP.

Other considerations

Historic heritage

71. In compliance with condition 9 attached to the 2015 permission a scheme of heritage asset resource management (SHARM) was approved by the local planning authority. The SHARM identified three areas of heritage interest within the site. Historic Constraint Area 1 included a World War Two pillbox, a non-designated heritage asset considered to be of moderate significance.
72. The appellant's heritage assessment describes the heritage asset as a World War II Type 22 pillbox. It was constructed in 1940 as part of the ground defence system to protect RAF Henlow located to the north east of the golf course site. The assessment explains that the significance of this asset is derived primarily from its fabric and the historic and architectural interest that it displays. The historic interest is derived from the information the asset provides for the defence of Britain during World War II and particularly the military strategy regarding ground-based defence of airfield sites and the approaches. The architectural interest is provided as an example of one of the more common types of pillbox, demonstrating characteristic features and an example of a blueprint which was replicated across the country¹³.
73. The assessment states that the pillbox originally would have been surrounded by a low mounds which were then cleared when the war was over and agricultural activity was restored. Photographs show that before the development took place the asset appeared to be in a neglected state and partly obscured by vegetation.
74. The extension to the golf course has retained the pillbox in situ within the course design, in an area of rough grassland adjacent to a fairway. Even though the pillbox is now sited in a pronounced hollow as a result of the ground works, it has been refurbished and is able to be seen in the round from close to and its function appreciated.
75. Balanced against these factors, the contours and resultant changes to the landform immediately around the pillbox are not substantially different to the approved scheme, as shown by the Council's isopachyte plan and the appellant's analysis. Gentler gradients and lower mounding across phase 3 would have been more comparable and sympathetic to the original setting. However, there was no visual relationship with the remaining pillboxes in the wider surrounding area and in this respect the effect on the setting and the significance of the asset is neutral.
76. In summary, the development of the golf course extension has changed the character of the setting, a change that was accepted when planning permission was granted in 2015 in effect for the material change of use of the land. All

¹³ Heritage Rebuttal paragraphs 4.4, 4.6.

matters considered, including the change to the levels and gradients in the as built scheme, the contribution of the setting to the significance of the pillbox or the ability to appreciate its significance have not been adversely affected.

77. In terms of the fabric of the pillbox, the appellants accepted that the landform of the as built scheme has the potential to cause pooling of water around its base, following the loss of the originally proposed swale. The proposed solution is to install a gully, offset 5.75 m from the centre of the pillbox, which would discharge to the pond to the east. The Council agreed that this proposal would overcome its concern. I am satisfied that the matter is able to be addressed and that the necessary works are able to be secured by planning condition.
78. In conclusion the proposal complies with Policy GE 1 criterion (I) and GE 14 of the MWLP that seek to ensure adequate assessment and to preserve sites of major archaeological importance and their settings. The development raises no conflict with the requirements in Policy DM3 of the CSDMP in respect of historically sensitive sites. Having carried out the balanced judgement required by paragraph 197 of the Framework I have not identified material harm or loss of significance.

Flood risk

79. The appellants' Drainage Technical Review accepted that the as built topography and the grading of the site does not match the approved planning drawings. In response, a technical study was carried out that demonstrated that the 1% (1 in 100 year) AEP plus 20% climate change allowance stormwater runoff can be contained without discharging into the local watercourses. This finding is in line with the approved Flood Risk Assessment. Consequently, the changes in the as built topography would not affect the operation and capacity of the drainage system. In the absence of any contrary evidence from the Council I have no reason to question this conclusion and the adequacy of the attenuation storage, taking into account the proposed measures for the protection of the pillbox.
80. The Council and interested parties raised concerns specific to the infilling of a drainage ditch adjacent to Station Road. The appellants maintained that they were not responsible for this action and that they had installed a ditch within the golf course boundary that runs parallel to the drain in question. In their view this ditch intercepts overland flows that would previously have contributed to receiving flows, thus reducing flood risk. The Council stated that the infilled ditch continued to be the subject of separate enforcement action under land drainage legislation.
81. The discussion at the hearing indicated that the ditch was a detailed and discrete matter that needed to be pursued separately through land drainage legislation, bearing in mind the changes in land ownership and conflicting accounts. For the purposes of the appeal the additional technical review and revised drainage proposals have demonstrated that the alterations to the contours and topography would not increase the risk of flooding on or off-site. Implementation of the proposed drainage works are able to be secured by planning conditions. There is no conflict with Policy GE 1 criterion (i) and Policy GE 20 of the MWLP.

Course extension

82. For Appeal A the appellant outlined the benefits of the course extension in terms of course viability, membership and local employment. These factors are recognised as important but they do not provide sufficient reasons for departing from the approved operational development and agreed design objectives.

Conclusions

83. The proposal fails to satisfactorily resolve the treatment and landscaping of the land parcel adjacent to 104 Station Road. There are inconsistencies between the landscaping plan and the grading plan that should be addressed to ensure planning conditions on any permission are reasonable and enforceable. The harmful impacts on landscape character and on the appearance of the extension site and surrounding area weigh heavily against the proposed amendments to the approved scheme. The harms identified are not outweighed by the proposal's acceptable effect on the privacy of residents, the neutral effect on the significance of the heritage asset and the ability to secure protection of its fabric, together with the satisfactory operation and capacity of the drainage system. The policy outcomes weigh against the development and the proposed variation of condition 1 is not acceptable.
84. For the reasons given above and having taken account of all other matters raised the appeal should be dismissed.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Celina Colquhoun	Barrister
Edward Landor MRTPI	Landor Planning Consultants Ltd
Bruce Weller MEIGCA	Director of Weller Designs
Laura Garcia BA(Hons) MCIfA	Associate Heritage Consultant, Pegasus Planning Group
Richard Manock BEng(Hons) MCIHT	Associate Director, Pell Frischmann

FOR THE LOCAL PLANNING AUTHORITY:

Mike Duffett BA(Hons) MRTPI	Principal Planning Officer (Enforcement), Central Bedfordshire Council (CBC)
Roy Romans BSc(Hons) MSc MRTPI	Team Leader Minerals and Waste, CBC
Hannah Firth BA(Hons) MA MCIfA	Archaeologist, CBC
Julia Scott PGDip UD PGDip LA CMLI	Landscape Planner, CBC
David Allan BSc	Assistant Drainage Engineer Flood Risk Team, CBC
Simon Beverly MCICES	Consultant, Woods Hardwick Surveying

INTERESTED PERSONS:

Steven Boyle	Landowner
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