



Appeal Decision

Site visit made on 2 February 2022

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Appeal Ref: APP/M3645/W/21/3276776

Burstow Golf Course, Antlands Lane, Shipley Bridge RH6 9TF

- 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 Mr Wright (Gatwick Footgolf Centre Ltd) against the decision of Tandridge District Council.
 - The application Ref TA/2020/10, dated 10 December 2019, was refused by notice dated 8 April 2021.
 - The development proposed is change of use of land. Extension of Gatwick Footgolf course with associated engineering works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal has been subject to screening to conclude that no Environmental Impact Assessment is required by virtue of the significance of environmental impacts.

Main Issues

3. The main issues are:

- Whether the proposal is inappropriate development in the green belt.
- The effect on the character and appearance of the surroundings.
- The effect on ecological interests.
- Whether harm by reason of inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Green belt – inappropriate development

4. The National Planning Policy Framework (the Framework) says that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.

5. Paragraph 150 (b) and (e) of the Framework confirms that engineering operations and material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Although the application form describes the existing use of the site as 'pasture', the Council indicate in their officer report that an element of outdoor sport and recreation is already permitted. This point is not evidenced in detail and, in any event, makes little difference in terms of the applicability of green belt policy in the Framework. Even if the use were considered to be existing, Paragraph 150 (b) would still be of relevance.
6. It is a matter of common ground between the Council and the Appellant that the proposal does not include additional buildings within the site. As such, paragraph 149 of the Framework is not of central relevance.
7. In considering green belt, Policy DP10 of the Tandridge District Local Plan Part 2 (Local Plan Part 2) uses different wording to the Framework to describe the relevant tests. I am not of the view that there is inconsistency between the Local Plan and the requirements of the Framework in this regard.
8. The character of the surroundings is rural. There are a number of fields of varying sizes broken by roads and pockets of buildings which are generally clustered in a relatively unplanned fashion, reinforcing the rural character. Mature trees are also a feature of the locality and mark the boundary of some fields. The topography is generally flat and low lying in the area to the west of the site and on a gentle incline to the east.
9. The appeal site sits to the rear of, and adjacent to, the existing footgolf use as it is viewed from Antlands Lane. It is an area of land that partially wraps around Burstow Park School and surrounding buildings which are not associated with footgolf. The site comprises two fields.
10. Field one is closest to the existing footgolf facility. A row of mature trees effectively divides the field in to two areas of disproportionate size. The smaller of the areas has a closer visual association with the existing footgolf facility due to its proximity. The larger area is more overgrown and unmanaged and, when visited, noticeably boggier underfoot than other parts of the site. Field one is bounded by mature trees and planting that, along with the lower lying nature, provides a degree of visual containment.
11. Field two is furthest away from the existing footgolf facility and around a corner. It is not therefore visually associated with the existing use. It is more obviously managed as pastureland and has an agricultural feel to it. It is also on higher ground than other parts of the site and less densely vegetated at its boundary, allowing long views across adjacent agricultural fields to the east and south.

12. Openness in the context of green belt is a broad policy concept and there are a number of factors that are capable of being relevant. It has both spatial and visual dimensions. I have paid regard to the factors identified in the evidence by both the Appellant and the Council.
13. Notwithstanding the Appellant's details on site levels, there is a lack of more detailed evidence relating to the landscape and visual impacts associated with the proposal. Nevertheless, the details adequately indicate the extent of changes to the land resulting from the engineering works. The alterations in levels across the site point towards a large amount of additional material being imported, and existing ground levels raising considerably in some parts. In this regard, the proposal goes beyond a limited reprofiling of land and instead represents a more extensive change to its profile.
14. In addition to the alteration to the changes to the ground levels, there would be increased undulation. Parts would run contrary to the established ground levels in the fields adjacent to the site (with the exception of the existing footgolf facility) which are mostly in agricultural use and follow the natural contour of the land, which is mostly flat and gently inclining from west to east.
15. The proposal would disrupt this natural flow. The effects would be most keenly felt in the third field (described above) as this land is already on higher ground and lacks the natural tree coverage, and therefore degree of enclosure, and visual association with the existing footgolf facility that is more present across other parts of the site.
16. Overall, the combination of the elements above would have an impact on openness that would be adverse. Notwithstanding the changes to the land in a spatial context, the degree of visual containment present in the case of field one means that the adverse impacts on openness would be more limited. For the reasons discussed above, the adverse impacts in the case of field two would be more significant. Notwithstanding my differing conclusions on the degree of adverse impacts, in both cases the proposal would not preserve the openness of the green belt.
17. The five purposes for including land within the green belt are set out in Paragraph 139 of the Framework. The main purpose of relevance in this instance is to assist in safeguarding the countryside from encroachment. The nature of the changes would not be the same as those associated with urban sprawl and no buildings are proposed. However, the engineering operations proposed are extensive in the context of this location. For the reasons set out above, the proposal would represent an encroachment. The degree of encroachment would be more profound in the case of field two.

18. I have limited evidence on the circumstances that led to the existing footgolf facility being regarded as appropriate development. However, the proposal, although closely related, is of a different scale and position. It also must be considered on the basis of the evidence that is put before me at this time. Similarly, although the Appellant's case study examples are informative, they cannot carry significant weight as they represent cases that were considered on the basis of their own circumstances and the evidence put forward to support them.
19. In conclusion, the proposed development would be inappropriate development in the green belt. Paragraph 147 of the Framework therefore indicates that the proposal is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Consequently, there is also conflict with Policy DP10 of the Local Plan Part 2 in relation to development within the Green Belt.
20. As Policy DP13 relates to buildings in the green belt, it's direct relevance to a proposal that involves engineering operations and a change of use of land is not demonstrated by the evidence.

Character and appearance

21. The substance of my assessment of the existing character of the land and the effect of the proposal upon it is set out above. As such, it is not expedient to repeat it at length.
22. In summary, the effects on character and appearance in respect of field one and field two have distinct conclusions.
23. In the case of field one, the functional and visual association with the existing footgolf facility, the existing visual qualities of the land, it's lower lying nature and the visual containment provided by surrounding trees are all relevant factors. The combination of these factors leads me to conclude that the effects on character and appearance would be acceptable.
24. The effects in respect of field two would be different, due to the position of this land further away from the existing footgolf facility and on higher ground, and the lesser extent of tree coverage. As such, this land is more visually isolated than other parts of the site, open, and there is a stronger visual connection to the adjacent agricultural fields. The proposal would adversely affect the character and appearance of this land, changing the agriculturally managed appearance and introducing a change in ground levels and contours to it that would be inconsistent with the natural profile of adjacent land.
25. On the basis of the details provided by the Appellant, I am not persuaded that the proposal would result in merely gentle surface undulation. Nor would the aim of creating an 'in keeping' land profile resulting from the merging of proposed contours with existing be achieved in practice with satisfactory results.

26. The Council make a number of references to the effect that the Appellant should be required to show the 'need' for the works and to 'fully justify the extent'. Need in this context is not of central relevance, the focus should instead be on the effects on character and appearance.
27. In conclusion on this matter, the proposed development would have a harmful effect on the character and appearance of the surroundings. Consequently, there is conflict with Policies CSP18 and CSP21 of the Tandridge Core Strategy and Policy CSP17 of Local Plan Part 2 which relate to character and design and include requirements relating to respecting character, setting and local context.

Ecological interests

28. The Council's reason for refusal refers to concerns about potential harm to ecological interests, in the absence of satisfactory demonstration to the contrary by the Appellant. Their concerns originate from a response received from the local wildlife trust, who subsequently wrote in response to the Appeal. I have paid regard to these comments.
29. The Council's officer report indicates that some of the prescribed ecological issues could be the subject of conditions. The evidence does not lead me to take a contrary view. I also note the comments from the Council's tree officer which responds to the Appellant's arboricultural evidence (including tree protection plan). I am satisfied that arboricultural issues could also be managed by condition, given the location and nature of potentially affected areas.
30. The Appellant's Preliminary Ecological Assessment (PEA) identifies that the site supports deciduous woodland along its boundary, which is said to be a priority habitat. This would appear to be distinct from the ancient woodland identified elsewhere. I have no evidence of consultation with Natural England to confirm the local wildlife trust's contention that an area of land within the site would appear to be Habitat of Principal Importance. Nevertheless, the PEA goes on to make an assessment of potential ecological impacts and suggests mitigation, which could also be the subject of condition.
31. Taken as a whole, and paying regard to statutory duties relating to biodiversity, I am satisfied that the PEA, arboricultural and other evidence appropriately assesses the potential ecological impacts arising from the proposal and that appropriate mitigation during construction and arising from the eventual use could reasonably be achieved by condition.
32. Whilst ecological enhancements are not extensively addressed, such a scheme could also reasonably be required by condition, given the conclusions of the PEA and potential of the site. Such an outcome could accord with the requirements of Policy CSP17 of the Tandridge Core Strategy.

33. In light of the issues under consideration, the additional value that an update to the 2019 PEA would add has not been demonstrated.
34. In conclusion on this matter, the proposal demonstrates that effects on ecological interests could be appropriately managed. Consequently, there is no conflict with Policy CSP17 of the Tandridge Core Strategy or Policy DP19 of the Local Plan Part 2 in relation to biodiversity.

Other considerations

35. The Appellant sets out a number of other considerations, which I have paid regard to and will address briefly.
36. The proposal would provide an expanded offering for the existing footgolf facility. This in turn would enhance local sport and recreation provision. The intention of providing a facility more suited to younger participants and those less able to use the existing facility would broaden participation. This brings with it social and health benefits. This consideration should be regarded as a benefit of the proposal that attracts positive weight.
37. The extent to which the recreational benefits would serve the immediate local area, or a wider audience, are not evidenced in any depth. Nor do I have more detailed evidence about potential economic benefits in terms of local investment or job creation.
38. The extent to which the proposal would directly assist in growing the sport of footgolf in the UK, and promoting Gatwick Footgolf as a national centre of excellence in the sport, is not extensively evidenced and less obvious as a wider benefit of the proposal. As such, this consideration attracts more limited weight.
39. In light of my conclusions relating to ecological interests, the site area is such that there is potential for ecological enhancements. It is unclear whether such enhancements would go beyond mitigation and, therefore, whether they could rightly be regarded as a benefit of the proposal. As such, this matter attracts limited weight.

Conclusion

40. The proposal is inappropriate development in the green belt which is, by definition, harmful. There is conflict with policies in both the Framework and Policy DP10 of the Local Plan Part 2. Paragraph 148 of the Framework is clear that any harm to the green belt should attract substantial weight.
41. I have also identified other harm due to the effects on the character and appearance of the surroundings.
42. The policies in both the Tandridge Core Strategy and Local Plan Part 2 are of some age. Paragraph 219 of the Framework directs that policies predating national policy should not be automatically be considered to be

out of date. In terms of policies relevant to this appeal, I find little inconsistency with national policy.

43. The exception to this is Policy CSP 21 of the Core Strategy insofar as it refers to countryside protection for its own sake. This policy is out of step with paragraph 174 of the Framework which emphasises protection and enhancement of valued landscapes and recognition of the intrinsic character and beauty of the countryside. Due to this inconsistency, I have given Policy CSP21 reduced weight. However, this has not changed my overall conclusions on the relevant issue.
44. There are other considerations that weigh in favour of the proposal. These are discussed in more detail above. The benefits associated with wider sport and recreation provision are the most clearly evidenced of these benefits.
45. Taken as a whole, the evidence relating to other considerations falls short of demonstrating that significant weight should be attached and that they amount to very special circumstances.
46. In final conclusion, the harm by reason of inappropriateness, and the other harm resulting from the proposal, is not clearly outweighed by the other considerations. Consequently, very special circumstances do not exist and the Framework and other policies direct that planning permission should be refused.
47. For the above reasons, and paying regard to all the points made, the appeal is dismissed.

D.R. McCreery

INSPECTOR