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## Appeal Decision

Site visit made on 19 January 2022

**by H Miles BA(hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 FEBRUARY 2022**

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**Appeal Ref: APP/J1915/W/21/3277292**

**Hertford Golf Course, London Road, Hertford SG13 7NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Belview Golf Ltd against the decision of East Hertfordshire District Council.
  - The application Ref X/20/0221/CND, dated 2 June 2020, sought approval of details pursuant to conditions no 3, 4, 5, 6, 7, 10, 11, 12, 16, 17 and 18 of a planning permission Ref 3/17/1867/FUL, as granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628.
  - The application was decided by notice dated 4 February 2021. Details of conditions 3, 4, 5, 6, 7, 12, 16 and 17 were approved. Details of conditions 10, 11 and 18 were refused.
  - The development proposed is: the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping
  - The details for which approval is sought are: a Surface Water Sustainable Drainage Scheme (SWSDS)
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### Decision

1. The appeal is dismissed, and the details are refused namely the SWSDS submitted in pursuance of condition 10 attached to planning permission Ref 3/17/1867/FUL, as granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628.

### Preliminary Matters

#### *Background*

2. Planning permission was granted at appeal for the use of the site as a golf course, subject to conditions, a number of which required information to be submitted to and approved by the Local Planning Authority (LPA). An application was submitted for approval of the details relating to eleven of these conditions. Eight of which were approved.
3. The three conditions which were not discharged related to the SWSDS, flood risk assessment (FRA) and surface water management strategy (SWMS). Condition 11 requires details to be submitted following the implementation of the SWSDS, as this has not occurred such details cannot be approved. Condition 18 is a restrictive condition requiring the permission to be carried out in accordance with the FRA and SWMS, and does not require details to be approved. Conditions 11 and 18 are therefore not part of this appeal.

4. Condition 10 requires the approval of a SWSDS. The full text of the condition and reason is set out in the schedule at the end of this decision.

#### *Amended plans*

5. Information including details of the western drainage layout, a catchment analysis, hydraulic model for the hydrological catchment and whole site, modelling for drainage design to accommodate a 1 in 100 year 40% event, changes and further details to manholes, and additional details of headwall, baffles, swale slopes amongst other things as well as updates to drawings following a site survey in March 2021, which were not before the Council at the time it made its decision, were submitted with the original appeal submission. Changes of location and specification for manholes and connected drainage and details of private drainage were submitted during the appeal process.
6. Also, during the course of the appeal a revised application was submitted to the LPA seeking to discharge condition 10 (LPA ref X/21/0353/CND). The appellant states that, taking into account the amended plans listed above, I have been provided with the details that accompanied this revised application. I acknowledge that this information is different to that considered under LPA reference X/20/0221/CND.
7. I have sought the main parties' comments on the information set out above. Due to the nature of this application, the LPA did not undertake public consultation.
8. In the circumstances of this appeal; there is a live planning application with the LPA seeking to discharge the same condition with comparable evidence that has been submitted to me, the main parties have been made aware of this information and have been given the opportunity to comment, and the additional information submitted at appeal provides further details but not significant changes to the overall scheme. For the reasons above, the parties would not be prejudiced if I were to consider these plans, and therefore the appeal is assessed on the basis of the amended plans.

#### **Main Issue**

9. The main issue is whether the proposed Surface Water Sustainable Drainage Scheme would secure the implementation of an acceptable drainage strategy and a surface water drainage system.

#### **Reasons**

10. I have been provided with the Lead Local Flood Authority's (LLFA) responses which identify that they are satisfied with the majority of the information submitted. I have no reason to come to a different conclusion to the Council and the appellant's professional advisors on the agreed matters. However, the provision of details of the reprofiling of the ordinary watercourse and the outfall arrangement have not been agreed. These details are provided with this appeal.
11. The LLFA have raised serious concerns with the proposed arrangement. The 90 degree angle to the outfall to the watercourse is unacceptable. Additionally, the haybales proposed as a temporary method to deal with silt and debris pose a risk of obstruction. Furthermore, the advice from the LLFA is that the details before me may not obtain land drainage consent.

12. These arrangements constitute part of how the SWSDS functions and therefore are an intrinsic part of it. I am not presented with an acceptable solution to this element of the strategy. This would mean that the SWSDS could not fully function as submitted thereby reducing the risk of flooding to an acceptable level.
13. The environmental permit is separate to planning legislation. Nevertheless, if this permit was not granted these aspects could not occur. Therefore, I am not satisfied that the SWSDS could be implemented as proposed and consequently the site and surroundings may be at risk from flooding.
14. Policy WAT5 of the East Herts District Plan October 2018 (DP) relates to Sustainable Drainage and sets out the requirements that SUDS should achieve. However, for the reasons above, if the SWSDS did not operate effectively as proposed and could not be implemented, these aims would not be realised. As such the proposed development would be contrary to this policy.
15. Therefore, the proposed SWSDS would not secure the implementation of an acceptable surface water drainage system or drainage strategy. As such it would be contrary to Policy WAT5 of the DP, the aims of which are set out above.

### **Conclusion**

16. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

*H Miles*

INSPECTOR

### **Schedule – Condition 10**

Condition 10 of the planning permission Ref 3/17/1867/FUL, granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628 states:

No development shall commence at the site before a Surface Water Sustainable Drainage Scheme (SWSDS) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- detailed engineered drawings of the proposed sustainable drainage features including their size, volume, depth and any inlet/outlet features and all corresponding calculations/modelling for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year + climate change rainfall events;
- a site plan with the final topographical levels of the site;
- details of any changes to the current surface water flow routes arising from the changes to the site levels and an assessment of their impacts on the ordinary watercourse which arise within and adjacent to the development site; and
- details of any exceedance flow paths for rainfall events in excess of the 1 in 100 year + climate change rainfall event that are beyond the design capacity of the system.

The development shall be carried out in accordance with the approved scheme prior to the first use of the site as a golf course.

The reason given for the condition is to secure the details and implementation of the drainage strategy and surface water drainage system