



Appeal Decision

Site visit made on 18 January 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal Ref: APP/H2265/W/21/3273606

West Malling Golf Club, East Street, Addington, West Malling ME19 5AR

Grid Ref Easting: 566007, Grid Ref Northing: 158930

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Greg Still, West Malling Golf Club against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/20/01876/OA, dated 18 August 2020, was refused by notice dated 27 October 2020.
 - The development proposed is 'outline planning application for the erection of 3 dwellings with all matters reserved apart from access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought for three dwellings with all matters reserved apart from access. The Council's second reason for refusal relates to the appellant's failure to demonstrate protected species would not be harmed by the proposed development. As part of their appeal case the appellant has submitted an Update Mitigation Strategy¹ (UMS) which seeks to address those concerns. The Council declined to comment on this because it considers the document should be submitted as part of a new planning application.
3. The UMS re-examines measurements of the appeal site and explains how the Council's concerns in respect of their second reason for refusal could be addressed, and forms part of the appellant's appeal case. It does not materially change the development for which outline planning permission is sought. The UMS is therefore relevant to the appeal and all parties were provided with an opportunity to comment on it. I am satisfied that no injustice would be caused to any parties by me proceeding to consider the UMS as part of the appeal.

Main Issues

4. The main issues are: i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; ii) the effect of the proposal on the openness of the Green Belt; iii) the effect of the proposal on protected species; iv) the effect of the proposal on designated open space; and v) if the proposal would constitute inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other

¹ By Corylus Ecology, reference 20030, dated 22 April 2021

considerations so as to amount to the very special circumstances necessary to allow the appeal.

Reasons

Whether Inappropriate Development

5. Paragraph 147 of the Framework² sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP3 of the Council's Core Strategy (2007) (CS) requires national policy to be applied in respect of Green Belts. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions include limited infilling in villages.
6. West Malling Golf Course comprises two expansive areas either side of Trottiscliffe Road and encircles the eastern and southern sides of the village of Addington. The appeal site is located within part of the golf course which forms an open gap on the eastern side of the entrance to East Street. A large cluster of houses is located beyond the golf course to the south, on the junction of Trottiscliffe Road and London Road.
7. The centre of Addington is a short distance to the northwest of the appeal site, but it was clear to me that East Street represents the easternmost boundary of the village. The eastern side of its entrance backs onto the golf course, beyond which is countryside. The large cluster of houses to the south of the appeal site are distinctly separate from the village, as is the golf course itself, which is entirely open and sweeps around the village between those houses.
8. The appeal site is bounded to the west by the highway of East Street, and to the north by houses on the eastern side of East Street. The proposal would infill part of the gap between those houses and Trottiscliffe Road. The opposite side of that part of Trottiscliffe Road is open countryside and another part of the golf course. In my view, this part of Trottiscliffe Road forms part of the physical southern boundary of the village. The proposal would therefore abut open golf course and countryside outside of the village boundary to the east and south, and rather than infilling an area within the village, it would extend the village boundary outwards into the open golf course.
9. Inherent in my reasoning above in terms of the location of the site, its present quality, and its continuity with surrounding natural land and the countryside, in my view the site may not be reasonably said to be within the boundary of the village of Addington. As the proposal would comprise the construction of new buildings within the Green Belt and would not constitute any of the exceptions listed at Paragraph 149 of the Framework, it would be inappropriate development. It would therefore conflict with Policy CP3 of the CS.

Openness

10. Paragraph 137 of the Framework states: '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 138 identifies five purposes Green Belts serve, including, amongst other things, to assist in safeguarding the countryside from

² National Planning Policy Framework (2021)

encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.

11. The appeal site is part of the playing area of the golf course and the presence of trees and other planting within the golf course and around its boundaries, as natural landscape features, do not restrict its openness spatially or visually. I note the appellant's claims that existing and proposed planting would obstruct views of what is claimed to be an already concealed site and I accept, on account of boundary banks, vegetation and trees, that the appeal site is secluded or hidden from view from certain vantage points on East Street and Trottiscliffe Road. However, the proposed development would represent a marked change in the landscape of this part of the golf course by introducing three buildings to an area currently occupied by a putting green.
12. The proposal would therefore reduce the openness of the Green Belt in a spatial and a visual sense. Even small spatial incursions into the Green Belt can, over time, amount to significant change. Notwithstanding the enclosed nature of part of the appeal site, the proposal would be visible from East Street, Trottiscliffe Road, and parts of the golf course, and although there are some moderating factors, the scheme would adversely affect the openness of the Green Belt to a limited extent.
13. The relatively small size of the appeal site in comparison to the wider golf course surroundings, and its siting adjacent to existing buildings do not convince me that the loss of openness that would be caused by the proposal would be insignificant. The presence of Trottiscliffe Road to the south and buildings to the north and west of the appeal site would not reduce the harm the proposal would cause to the openness of Green Belt. The proposal would not therefore help maintain an important gap between houses on East Street and Trottiscliffe Road, nor would it provide a more robustly defined development boundary to enable surrounding areas of Green Belt to remain permanently open.

Protected Species

14. A Protected Species Report³ (PSR) has identified populations of protected reptiles and amphibians within the appeal site, including Great Crested Newts within a pond (referred to as 'P1' within the PSR). The UMS explains how the proposal's effect on those species could be mitigated, in response to the comments of Kent Wildlife Trust presented in the Council's officer report. This includes the replacement of 0.16ha of suitable reptile and amphibian habitat and 0.11ha of low to negligible quality habitat with a 0.24ha receptor site within the appeal site.
15. The UMS explains how the proposed receptor site would be prepared, how protected species would be translocated to the proposed receptor site and how the proposed receptor site would be managed, but there is no information before me to show how surface water run-off could be managed to ensure the proposal would not result in significant harm to Great Crested Newts, which are designated as a European protected species by the Habitats Regulations⁴. Kent Wildlife Trust raised these concerns and suggested further details would be

³ By Corylus Ecology, reference 20030, dated 11 August 2020

⁴ The Conservation of Habitats and Species Regulations 2017 (as amended)

- needed to demonstrate a sustainable drainage system could prevent adverse impacts, but P1 should not form part of that system.
16. The UMS states that P1 will not form part of a sustainable drainage system, and that soakaways and, if required, a gravity connection to the public foul water sewer would be used to manage water run-off. However, it has not been demonstrated how these measures would prevent any changes to water quality of the proposed receptor site, including P1, which may affect Great Crested Newts. Such details are particularly important due to the size and location of P1 roughly in the centre of the lower half of the appeal site, meaning any layout of three dwellings would likely have to be arranged closely around this habitat which currently supports a large breeding population of Great Crested Newts.
 17. It is clear that P1 would be retained within the receptor site, and I note Paragraph 6.49 of the appellant's Supporting Planning Statement which recommends that it should be confirmed that the existing pond, which I take to mean P1, is lined. No such confirmation has been provided, and although the application is in outline with all matters reserved apart from access, Circular 06/2005 states it is essential that the extent to which a protected species may be affected by a proposal is established before any planning permission is granted.
 18. Despite the detailed PSR and UMS, it remains unclear as to how P1 will be retained and maintained to avoid any significant adverse effect on Great Crested Newts, with particular regard to water run-off management. The UMS recommends that a Landscape and Ecological Management and Monitoring Plan should be required to be approved by condition, but on account of the position and size of P1 within the appeal site, in the absence of sufficient details to show how water run-off from the proposed development would be managed, I cannot be reasonably sure that it is possible for the proposed development to be constructed while retaining P1 in a state which would not harm Great Crested Newts.
 19. The proposal would therefore fail to comply with Policy NE3 of the Council's Managing Development and the Environment Development Planning Document (2010) (DPD). This requires proposals to make provision for the retention of habitats and protection of its wildlife, amongst other things.

Open Space

20. The golf course is designated as open space by Policy OS1 of the DPD. The proposal would result in the loss of a small part of this open space currently occupied by Hole 13. The appellant has explained that Hole 13 would be relocated to a vacant part of the golf course along its northern boundary next to the M20 motorway, which has been indicated on a vaguely annotated aerial photograph.
21. I saw the proposed area for the relocated Hole 13 to be an overgrown area of land which appeared to be an unmanaged and unused part of the golf course, inaccessible on account of its thick vegetation. That area lies outside of the appeal site and there are no details before me to confirm its use as a relocated Hole 13 has been formally secured. In any case, there would be a net loss of open space used for recreational purposes, as the area for the proposed Hole 13 appears to already comprise part of the golf course, albeit an underused area.

22. Policy OS1 states, amongst other things, that development which would reduce the recreational or amenity value of existing open space will not be permitted unless a replacement site is provided which is equivalent or better in terms of quantity, quality and accessibility. This is broadly consistent with Paragraph 99 of the Framework, which advises that existing open space should not be built on unless the loss would be replaced by equivalent or better provision in terms of quantity and quality, amongst other things.
23. The loss of part of the current Hole 13 would be mitigated in a functional sense by the relocated Hole 13 in a vacant part of the golf course. The recreational value and quantity of playing area of the golf course would therefore remain largely unaffected, despite the net loss of designated open space.
24. The amenity value and quality of the open space, however, would be reduced because the appeal site is in a more prominent location, close to Trottiscliffe Road, which would change from part of the golf course to housing. The relocated Hole 13 would occupy a more remote space adjacent to the M20. The works associated with relocating Hole 13 would formalise the currently underused part of the golf course, but this would not improve the amenity value or quality of the designated open space as a whole. The proposed development would therefore conflict with Policy OS1 of the DPD.

Other Considerations

25. The Council's Strategic Housing Land Availability Assessment (SHLAA) Report from March 2018 considered the suitability, availability and achievability of the appeal site for the delivery of housing, before concluding there was a reasonable prospect that development could be provided, subject to further consideration of the infrastructure required. The appellant has explained how concerns in that report relating to these issues could be addressed, including a safe access onto East Street. Nevertheless, those arguments do not relate to the main issues in this appeal, including its location within the Green Belt. Many sites may be assessed via a SHLAA, but that is an evidence-based document informing policy propositions. The appeal site was not allocated for housing following the SHLAA report.
26. The proposed dwellings would comprise 'Lifetime Homes', the finished design of which could be required to be approved at reserved matters stage by condition. They would therefore be capable of being occupied by, and easily adapted for future occupation by, elderly and disabled persons with particular accessibility requirements. The appellant has referred to a significant undersupply of such houses and a growing elderly population.
27. No mechanism has been submitted to secure the occupation of the proposed dwellings by any particular persons, and although the finished design of the proposed dwellings could be required to accord with Lifetime Homes standards by condition, this would not ensure the proposed dwellings would ease demand for elderly and disabled persons' housing in particular. The contribution of three houses towards the supply of houses capable of being occupied or adapted for occupation by elderly or disabled persons would, in any event, be a modest benefit, but this would not constitute the very special circumstances needed to justify the harm to the Green Belt.
28. The Council is unable to demonstrate a five-year housing land supply, and consequently paragraph 11 of the Framework is relevant. I am told by the

appellant that the Council's housing land supply as of March 2020 stood at 2.93 years' worth, and that is not specifically disputed by the Council. I also understand that a refreshed version of a new local plan was submitted for examination in July 2021, and as such some uncertainty about housing land supply is likely to persist for some time. Where this is the case, the policies which are most important for determining the application are out of date and planning permission should be granted, unless (i) the application of policies in the Framework that protect areas or assets of particular importance, such as Green Belts, provides a clear reason for refusing the development proposed.

29. In this instance, given the foregoing reasoning, Green Belt policy provides a very clear reason for refusing the proposal and I have not found any other considerations which would amount to the very special circumstances necessary to justify granting planning permission in this instance.

Conclusion

30. The proposal would be inappropriate development in the Green Belt and would harm its openness. I cannot conclude that harm would not be caused to Great Crested Newts, a European Protected Species, and the proposal would also reduce the amenity value of designated open space. For the reasons set out above, very special circumstances in support of the scheme have not been demonstrated, and no other material considerations justify allowing the appeal in the light of the harm that would result. The appeal is therefore dismissed.

L Douglas

INSPECTOR