



Appeal Decision

Site visit made on 1st February 2022

by Megan Thomas Q.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 11th March 2022

Appeal Ref: APP/D5120/W/21/3280153

Sidcup Sports Club, 49 Sydney Road, Sidcup DA14 6RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under s.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 Joe Pressney against the decision of the London Borough of Bexley.
 - The application Ref. 21/00828/FUL, dated 10 March 2021, was refused by notice dated 30 June 2021.
 - The application sought planning permission for demolition of 69 to 71 Sydney Road to provide access road and new residential development for erection of 28 houses and garages on part of the existing sports ground and one and two storey extension to existing clubhouse with associated car parking, without complying with a condition attached to the planning permission allowed on appeal (ref.APP/D5120/A/10/2140206) dated 24 February 2011.
 - The condition in dispute is no.22 which states that: "The Clubhouse and associated buildings shall not be open to customers and members outside the following times: 0730 to 2300 on Mondays to Sundays."
 - The reason given for the condition is: "to ensure that the proposed development does not prejudice the amenities enjoyed by occupiers of residential properties in the vicinity."
 - The Appellant seeks a variation of the condition in dispute to allow earlier opening hours of the Clubhouse and associated buildings.
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Application for Costs

1. An application for costs was made by Mr Joe Pressney against the London Borough of Bexley. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for demolition of 69 to 71 Sydney Road to provide access road and new residential development for erection of 28 houses and garages on part of the existing sports ground and a one and two storey extension to existing clubhouse with associated car parking, at Sidcup Sports Club 49 Sydney Road, Sidcup DA14 6RA, in accordance with the application Ref:21/00828/FUL, dated 10 March 2021, without compliance with condition number 22 previously imposed on planning permission (appeal ref. APP/D5120/A/10/2140206), in accordance with the application Ref:21/00828/FUL, dated 10 March 2021, and subject to the conditions in the Schedule of Conditions at the end of this decision letter.

Main Issues

3. The appellant seeks to vary the daily morning opening time of the clubhouse and associated buildings from 0730 hours to the earlier time of 0600 hours so that the condition reads "The clubhouse and associated buildings shall not be open to customers and members outside the following times: 06:00 to 23:00 on Mondays to Sundays". The main issues in the appeal are the effect of the proposal on the living conditions of the occupants of 53-67 Sydney Road in respect of noise and disturbance and the effect on the traffic and car parking arrangements in and around the site.

Reasons

Living conditions of residents

4. The appeal site is a broadly rectangular parcel of land to the east of Sydney Road. The site hosts Sidcup Sports Club which includes a variety of tennis courts, cricket and rugby pitches, as well as an associated gym and clubhouse with bar and function hall. In a separate building on the site located away from the clubhouse is a children's day nursery called Rise and Shine.
5. The Clubhouse incorporating the gym and changing facilities are situated more or less centrally within the site. There is a distance of around 100 metres to the rear elevation of the closest property in Sydney Road from the Clubhouse. There is a dwelling (possibly subdivided) which appears to be linked to the operation of the Sports Club which is located along the access drive within the site.
6. There is car parking on the site in four locations providing for some 120 or so vehicles in total. Two of the parking areas are surfaced and two are gravelled. One of the unsurfaced parking areas is directly behind the rear gardens of 57-63 Sydney Road which are residential properties. The entrance to and exit from the site is on the Sydney Road frontage so that all of the vehicles arriving at and leaving the site pass close to a number of properties in Sydney Road.
7. There is an existing equipped gym within the clubhouse buildings which I saw on my site visit and which is not overly large in footprint. It is for use for those who have taken out a gym membership. There are plans to invest in and cater for Crossfit training, which is a particular way of fitness training involving a mix of cardio, gymnastics and weightlifting movements. Some additional specialist equipment is likely to be acquired by the Club. There is likely to be Crossfit classes which are led by an instructor and generally involve no more than a dozen participants. The Sports Club would like to be able to open the gym earlier in the morning to accommodate members who, inter alia, want to work out before going to work.
8. The Bexley Unitary Development Plan adopted in 2006 includes policy ENV39 which seeks to ensure that the amenities of adjoining occupiers are protected from any adverse impact of a development. Turning to the occupants of 53-67 Sydney Road, the rear of their dwellings are visible from the unsurfaced car park which abuts their rear gardens. There is a white picket fence near the boundary. Vehicles parking and manoeuvring in that car park would be likely to

- be seen and heard by nearby residents. Cars doors being opened and shut are also likely to be heard from within the dwellings when background noise is low.
9. However, I am not persuaded that vehicles associated with the clubhouse gym facilities would be parking in that car park prior to 0730 each day, other than very occasionally. Whilst that car park has a capacity for parking, very approximately, 50 vehicles, a member of gym staff or gym member is highly likely to find a space on the surfaced car parks much closer to the gym entrance at around 0600 and for at least the next 90 minutes or so. The car park behind 53-67 Sydney Road is, to my mind, an overspill car park typically used after the more conveniently-located car parks have been filled up. Even if there is an early morning gym class of 12 or so participants, it is unlikely in my view that those arriving by vehicle would use the unsurfaced car park behind 53-67 Sydney Road.
 10. I have also considered whether there would be any unacceptable noise or disturbance from vehicles associated with the site to residents nearer the sports club entrance or at other locations on or around Sydney Road but I have concluded that those impacts would not be unacceptable given the likely low level of traffic generated by the gym use before 0730. I have borne in mind that there are traffic movements generated in the early morning by the children's nursery but I am not convinced that the cumulative impact would be unacceptably adverse in relation to noise and disturbance to local residents. I refer to the nursery again below.
 11. On this issue, I find that the proposed amended planning condition would not result in harm to the living conditions of the occupants of 53-67 Sydney Road by reason of unacceptable noise or disturbance, including any visual intrusion. The amended condition would not be in conflict with policy ENV39 of the UDP or policy CS01 of the Bexley Core Strategy 2012.

Traffic and parking

12. The Local Highway Authority has raised concern about the impact of the variation on the highway and on parking within the site particularly in respect of the cumulative impact with use of the children's day-care nursery. The nursery caters for up to 50 children from 0730 hours onwards Monday-to-Friday (planning application ref.15/01776/FUL).
13. There would be some overlap with the use of the gym if it opened from 0600 hours. I have borne in mind the fact that some traffic associated with the nursery is likely to arrive prior to 07.30 hours. The Authority indicates that the nursery is yet to have a travel plan approved pursuant to its own planning permission.
14. Notwithstanding those factors, I have concluded that there would be no adverse impact on the free flow of traffic or highway safety or on the parking arrangements on the site from the likely modest increase in traffic generated by the gym in its first 90 minutes of opening cumulatively with the traffic and parking associated with the children's nursery. There is no good reason for refusing the variation of the condition on the basis of highway safety on Sydney Road, parking on the site or impact on the free flow of traffic on or off

the site. Policies CS15 and CS01 of the Bexley Core Strategy (2012) or policies T16 and ENV39 of the Bexley UDP would not be breached.

Conclusion

15. Having taken into account all representations made, for the reasons given above, I allow the appeal. Condition 22 is varied as sought.

Megan Thomas Q.C.

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun within 5 years from the date of this permission granted on 16 November 2001.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, being Drawing No(s) 2012/AB/01/D, 02C, HOO/609/002/D, 05, 06, 07, 08, 09, 10, 11, 12, 13B, 14 and 15 and any approval subsequently granted.

3. Details of the proposed surface water and foul drainage and means of disposal shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby granted permission shall take place without the prior permission of the Local Planning Authority.

5. Details of screen wall and fences shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and such walls and fences shall be erected before the buildings with which they are associated are first occupied and shall thereafter be maintained.

6. Before any of the development hereby permitted is commenced a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented before the development has occurred, or before any phase of the development, as may be agreed with the Local Planning Authority, and shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Trees and shrubs which die during this period shall be replaced.

7. Before the development hereby permitted is commenced, all the existing trees to be retained on site shall be protected by a fence to be approved in writing by the Local Planning Authority erected at a radius in excess of one canopy

spread of the tree. Within the areas so fenced off, the existing ground level shall be neither raised nor lowered and no materials, temporary building, plant, machinery or surplus soil shall be placed or stored thereon.

8. No trenches or pipe runs for services and drains shall be cut or laid within the canopy spread of any existing tree to be retained on this or adjoining sites without prior permission of the Local Planning Authority.

9. Before development is commenced a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for the external walls and roofs of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approvals.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), any parking space and garage shown on the submitted plans shall be provided and constructed to the satisfaction of the Local Planning Authority before the building(s) is/are first occupied. This space shall be used for or available for use at all times.

11. Before development is commenced, a survey shall be undertaken to determine the level of landfill gas present in the ground and the results of this survey shall be made available to the Local Planning Authority before construction commences in order that appropriate structural measures can be specified and agreed for incorporation in the development and adequate means of future monitoring can be agreed.

12. No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy together with a timetable of works, being submitted to the Local Planning Authority for approval.

a) The contaminated land assessment shall include a desk study to be submitted to the Local Planning Authority for approval. The desk study shall detail the history of the site's uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the Local Planning Authority prior to investigations commencing on site (ref 1).

b) The site investigation including relevant soil gas surface and groundwater sampling shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with the Quality Assured sampling and analysis methodology (ref 2).

c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature so as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance (ref 3). If during any works

contamination is encountered which has not previously been identified then the additional contamination should be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for approval.

e) Upon completion of the works this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of the proposed remediation works and the quality assurance certificated to show that the works have been carried out in full in accordance with the approved methodology. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Ref 1: Contaminated Land Research Report nos. 2, 3 and 4 DoE

Ref 2: Contaminated Land Research Report no. 1 DoE

Ref 3: CIRIA Vols 1-12 Contaminated Land Series CIRIA 'Building on Derelict Land'

13. The roads and footways within the residential site shall be constructed in accordance with the design and specification submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

14. Details of the finished surfaces of the access road, which shall include coloured materials and block paving and street lighting details, shall be submitted to and approved in writing by the Local Planning Authority before the development commences.

15. A properly consolidated, drained and surfaced turning space for vehicles shall be provided within the curtilage shown on the approved plans to the satisfaction of the Local Planning Authority before any of the dwellings are first occupied and shall be used or available for such use at all times thereafter.

16. Before any part of the development hereby permitted is first occupied, the proposed vehicular access onto Sydney Road shall be provided with 2.4 metres x 2.4 metres pedestrian visibility splays and 2.4 metres x 50 metres vehicle sight lines in both directions and there shall be no obstructions to visibility in excess of 600mm in height within these splays, which shall be permanently maintained thereafter to the satisfaction of the Local Planning Authority.

17. Adequate precautions shall be taken to prevent the deposits of mud and similar granular materials on the public highway in accordance with the details to be submitted and approved in writing by the Local Planning Authority.

18. Notwithstanding the plans submitted, details of the access road serving the Sports Club shall be submitted and approved in writing by the Local Planning Authority prior to any part of this development hereby approved being brought into use.

19. Notwithstanding the plans submitted, revised details of the parking and service areas within the proposed Sports Club site shall be submitted to and

approved in writing by the Local Planning Authority before work commences on site, and such arrangements shall be completed in accordance with the approved details prior to any part of this development hereby permitted first brought into use and be permanently available for such use thereafter.

20.The use of land for car parking shall not be commenced until the site has been laid out, surfaced and drained to the satisfaction of the Local Planning Authority.

21.Before work commences on site, a Travel Plan incorporating measures to reduce car traffic by encouraging customers and staff to travel to and from the Sports Club by other means of transport, shall be approved in writing by the Local Planning Authority, and the development hereby permitted shall not be occupied or operated other than in accordance with the approved policy document.

22.The clubhouse and associated buildings shall not be open to customers and members outside of the following times: 0600 to 2300 hours on Mondays to Sundays.