



Appeal Decision

Site visit made on 1 November 2022

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 16TH DECEMBER 2022

Appeal Ref: APP/A3655/C/21/3275312

Land known as Twisted Stone Golf Club and Lee Farm, Pyrford Road, Woking, Surrey GU22 8UE

- 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 Twisted Stone Limited against an enforcement notice issued by Woking Borough Council.
- The enforcement notice was issued on 15 April 2021.
- The breach of planning control as alleged in the notice is Without planning permission; (a) the material change of use of part of the land, namely the existing car park as shown hatched black on the Plan to a greenkeepers maintenance compound, and (b) the siting of five (5) metal storage containers.
- The requirements of the notice are: (i) Cease the use of the existing car park described at paragraph 3 above as a greenkeepers maintenance compound and for the siting of metal storage containers; and (ii) Remove from the Land the metal storage containers; and (iii) Remove from the Land all materials, rubble and debris including all associated paraphernalia arising from compliance with (i) and (ii) above.
- The period for compliance with the requirements is Two (2) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal is brought on ground (a), an application for planning permission is deemed to have been made under s177(5) of the Town and Country Planning Act 1990.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. On the appeal form, the appellant indicated appeals being made under grounds (a) and (f). However, it was later confirmed that the appeals were intended to be under grounds (a) and (g).
2. I have a duty though to be alert to "hidden grounds" of appeal and to deal with these where possible. The appellant's submissions contain arguments falling within ground (c); the appellant comments effectively that use of the car park as a greenkeepers maintenance compound does not represent a material change of use ('MCU') requiring planning permission on the basis that such use is ancillary to the overall golf course use. The appellant did not though expand upon its reasoning in representations.
3. The Council's statement indicates that it is aware of the appellant's position in this regard but refutes this. Again though, the Council did not detail its reasoning on this. Accordingly, I gave both parties additional time to make their submissions in relation to ground (c). These further comments have been taken into account.

4. The appellant's appeal submissions referenced various case law and an appeal decision. Copies of these were not though provided and accordingly, once received from the appellant, the Council was given an opportunity to comment on these. However, no comment was made.
5. The National Planning Policy Framework was revised in July 2021 ('Framework'). The parties were given an opportunity to comment on this, but no comments were received.

The appeal on ground (c)

6. The appeal on this ground is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make their case on the balance of probability.
7. The appellant accepts that the siting of storage containers represents operational development and a breach of planning control. However, the appellant contends that use of the former car park as a maintenance compound does not represent a MCU on the basis that such use is ancillary to the golf club use of the wider site. The Council's position is essentially that the use represents a MCU by reason of change in the character of the use itself and of the effects of the change upon neighbouring uses and the locality.
8. Whether or not there has been a MCU is a question of fact and degree in any given case. For there to be a MCU, there needs to be some significant difference in the character of the activities from what has gone on previously. Where it is disputed that a MCU has taken place, it is necessary to ascertain the correct planning unit. The planning unit is usually the unit of occupation, unless a smaller area can be identified which is physically separate and distinct, and/or occupied for different and unrelated purposes; the concept of physical and functional separation is key.
9. An incidental or ancillary use is one which is not part and parcel of, but is functionally connected to a primary use, and the functional relationship is one which is normally found. The question of scale is not determinative but may be relevant to whether a use is incidental.
10. I find in this case that the planning unit is the unit of occupation, being the entire golf course site; I do not consider that the former car parking area in question is occupied for purposes unrelated to the remainder of the site; there is a clear functional connection between the two. That functional relationship is one which is commonly found, and I note also that the scale of the maintenance compound is very modest in area compared to the wider site.
11. The previous use of the golf club site would have seen low key activity and consequent noise from comings and goings at a relatively low level, and generally dispersed around the grassed areas as players use the course. People using the club house would result in a more bustling type of activity but this would not seem to be an especially invasive use in terms of noise and disturbance. Use of the parking area and associated engine noise and car doors closing, along with mowers, sprayers and tractors coming onto and exiting the site would have resulted in fairly transient disturbance. Overall, the character of the planning unit formerly would have been fairly low key, with pockets of more bustling activity and occasional transient louder sounds.

12. In contrast, whilst I have only limited information as to the activities taking place in the maintenance compound, on the available evidence, it seems to me that this new use results in a change in the character of the use of the planning unit, even bearing in mind its relatively small scale. It introduces a use which results in a very different level and type of noise and disturbance resulting from tools and machinery, focussed around one hub of activity. This is markedly different from the relatively low key character of the golf course site described above.
13. Planning merits are not under consideration under this ground, and it should be noted that a change in character is not an indication of an adverse effect. However, off-site effects can be relevant in assessing materiality. Again on the limited evidence before me in relation to noise impacts for nearby residential properties, I find that such off-site effects also point towards a MCU.
14. I find then as a matter of fact and degree on the evidence before me that the use as a maintenance compound as alleged represents a MCU and so a breach of planning control. Accordingly, the ground (c) appeal fails.

The appeal on ground (a) and the deemed planning application (DPA)

Main Issues

15. The main issues are:

- whether the appeal development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the appeal development on the openness of the Green Belt;
- the effect on the character and appearance of the area;
- the effect on the living conditions of neighbouring occupants, with particular regard to noise and disturbance; and
- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the appeal development.

Whether or not inappropriate development in the Green Belt

Alternative scheme

16. The appellant proposes in this appeal a 'lesser' scheme for the siting of only 4 storage containers, with the addition of further soft landscaping also. This scheme was the subject of a refused planning application¹. The Council makes no argument that this scheme is not part of the matters enforced against. In my view it represents part of those matters, namely some of the storage containers alleged to be sited in the notice, and the additional landscaping proposed could be achieved by condition. I return to this scheme below.

National policy

17. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts, and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are identified as their openness and permanence.

¹ Ref: PLAN/2020/0363 ('2020 Application')

18. The five purposes of Green Belt are stated at paragraph 138 of the Framework as: a) checking the unrestricted sprawl of large built-up areas; b) preventing neighbouring towns from merging; c) assisting in safeguarding the countryside from encroachment; d) preserving the setting and special character of historic towns; and e) assisting in urban regeneration, by encouraging recycling of derelict/other urban land.
19. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate development unless falling into one of the listed exceptions. An exception stated at paragraph 149 b) is:

'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation...; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;'

Analysis

20. The appeal development includes a MCU as outlined above and also operational development in the form of storage containers. Whilst I have only limited information as to the exact uses made of the storage containers, I can appreciate the need for these given the extensive grounds of the golf course and the necessity in a golfing use to keep those grounds in a suitable condition. As such, the appeal development meets with the first limb of paragraph 149 b) as an appropriate facility.
21. However, to fall within the paragraph 149 b) exception, it must also be shown that the appeal development preserves the openness of the Green Belt, and does not conflict with the purposes of including land within it. The appellant has referenced various case law² and an appeal decision in support of its position that the appeal development preserves the openness of the Green Belt. I have taken these into consideration in my analysis below.
22. As to openness then, much of the surrounding Green Belt is undeveloped in the sense of being relatively free of built form. The golf course associated with the appeal site extends over a relatively large area of Green Belt. The appeal site was previously part of the golf club car park - a hard surfaced area around the club house.
23. The area where the appeal development has taken place represents a small part of the expansive area in use as a golf course. However, even with only four storage containers sited as proposed, this would be a significant increase in bulk and massing in this area as compared to the former hard surfaced car parking area with no above ground structures. As such, this would have a material impact on the extent of built form within the Green Belt as a whole.
24. The appellant proposes additional soft landscaping to screen the appeal development. However, even with this established and bearing in mind the setback from the road, I consider that it would not entirely screen the sizeable storage containers and their very industrial appearance from public vantage

² *John Turner v SoS CLG* [2016] EWCA Civ 466; *Euro Garages Ltd v Secretary of State for Communities and Local Government* [2018] EWHC 1753 (Admin) 11 Jul 2018, [2019] P.T.S.R. 526; *Rookery Estates Co v Bromley LBC* Planning Inspector [2019] 6 WLUK 791 25 Jun 2019, [2019] P.A.D. 37; *R (Samuel Smith Old Brewery) v North Yorkshire County Council* [2020] UKSC 3

- points. These would remain visible, at least to some extent, particularly during winter months when deciduous planting would not be in leaf. Their massing and urban appearance means that, even with additional landscaping, these would reduce openness as compared to the previous position of an open car parking area with less soft landscaping.
25. I note the appellant's comment that the appeal development is located on previously developed land and close to the existing club house. However, I do not accept that this reduces the likelihood of encroachment onto the undeveloped Green Belt within the site on the basis that no planning permission has been secured for any such encroachment.
26. Drawing these matters together, I find that even the lesser scheme including additional landscaping proposed by the appellant would not preserve the openness of the Green Belt. It would directly affect a fairly small area of the site but, bearing in mind the relatively undeveloped surrounding Green Belt, it would have a significant effect on the Green Belt overall in reducing openness.
27. In reaching this view, I have borne in mind that the exceptions contained within paragraph 149 all anticipate some change to the environment and as such, merely the fact that the siting of storage containers represents a change does not of itself mean a loss of openness. I acknowledge also that in the context of the paragraph 149 b) exception which anticipates the provision of facilities, it would be illogical for the preservation of openness to require complete freedom from any built form.
28. As to Green Belt purposes, the very obviously industrial appearance of the storage containers, even if reduced in number and with additional soft landscaping, would represent an increase in urban sprawl. This remains the case compared to the previous appearance as a car park with less landscaping. In this way there would be conflict with the Green Belt purposes outlined.
29. Thus, the appeal development does not fall within the paragraph 149 b) exception and it represents inappropriate development in the Green Belt.

Openness

30. My assessment above was that the siting of even four storage containers with additional soft landscaping would not preserve the openness of the Green Belt. The storage containers are of a bulky industrial appearance but are sited on a small area within the Green Belt on a former car park. Drawing these matters together, I find that the level of harm from the loss of openness is at the lower end of the scale.

Character and appearance

31. As outlined, the appeal development has taken place on what was formerly part of the golf club car park. On this side of the road in the immediate area, built development is fairly sparse, with a large area being given over to the largely open land of the golf course.
32. This can be contrasted with the more dense residential development on the other side of the road. However, even in the context of this housing, the immediate locality has a leafy, semi-rural feel by reason of the open land to the east and in view of the extensive hedges, trees and grassed areas lining Pyrford Road. The traditional design of buildings in the area creates a sense of

a village character, with converted Lees Farm buildings adjacent to the appeal site making an especially strong contribution in this regard.

33. The presence of even four storage containers with additional screening would, by reason of their utilitarian industrial design and massing, result in harm to this semi-rural setting. The presence of the club house in relatively close proximity and the fact that the storage containers are not sited on the golf course itself does not overcome this harm.
34. As such, the appeal development presently significantly harms the character of the area. The alternative scheme proposed by the appellant also would result in material harm in this regard. Conflict arises thus with Policies CS21 and CS24 of the Woking Core Strategy 2012 ('CS') which requires that new built development respects the street scene and character of the area, and seeks to protect local distinctiveness. I recognise that Policy CS24 encourages the planting of new trees but I find that overall this policy is not complied with. The requirement in Policy DM3 of the Council's Development Management Policies 2016 ('DMP') to avoid adverse visual impacts in development for outdoor sport or recreation would not be adhered to.
35. Whilst existing tree screens/hedges would be preserved, with indeed some enhancement, there remains a fundamental failure to accord also with Policies BE1 and BE3 of the Pyrford Neighbourhood Plan 2016-2027 ('NP') which stipulate that all new development should take into account the specific context of the site and wider character of the street scene, and should respect local character and appearance. Similar aims contained within the Woking Design SPD 2015 ('SPD') also would not be met.

Living Conditions

36. The maintenance compound is positioned close to residential dwellings at Lees Farm cottages and Lees Farm Barn. Only limited information has been provided by the appellant as to the activities undertaken in the maintenance compound. However, given the maintenance use stated, I would anticipate that this would have the potential to cause significant noise and disturbance to these residential properties, particularly by use of tools and machinery. In the absence of any substantive noise evidence, I cannot be satisfied that these noise levels would not result in material harm to the living conditions of neighbouring occupants.
37. There is no evidence before me which would suggest that a reduction in the number of storage containers, nor provision of additional soft landscaping, would mitigate against this harm in any meaningful way. Again, without evidence to indicate otherwise, it seems likely that the maintenance compound would be a hub of noisy activities. The situation is not therefore comparable to fall back position of daily entry and exit by mowers, sprayers and tractors, which would result in more transient disturbance. Nor could the comings and goings of cars, if the appeal site were used for parking, be expected to result in comparable disturbance given that this would likely be a more brief disturbance at a quieter noise level.
38. The appellant proposes a condition controlling maintenance hours, as well as timings for arrivals and departures from the site. However, whilst there would be a benefit in controlling the times when vehicles can enter and exit the appeal site, this would be outweighed by the harm resulting from the appeal

site being a hub for potentially very noisy activities which, in the absence of contrary evidence, may well cause harmful noise and disturbance even in the middle of the day. The requirement of paragraph 185 of the Framework for planning decisions to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development is not met.

39. Whilst I note the relatively low number of objections, I find that the development thus has a harmful effect on the living conditions of neighbouring occupants, with particular regard to noise and disturbance. There is conflict thus with Policy CS21 of the CS and with Policy DM3 of DMP. These policies require that new development is designed to avoid significant harm to the environment and to general amenity including resulting from noise, and that proposals in relation to outdoor sporting/recreational facilities do not give rise to a loss of amenity through noise or general disturbance.

Other considerations

40. The appellant emphasises the need for the maintenance compound and I accepted above in connection with paragraph 149 of the Framework that the appeal development represents an appropriate facility and so in principle falls within the paragraph 149 b) exception, subject to effects on openness and the purposes of the Green Belt.
41. However, only limited information is given as to the activities occurring in the maintenance compound. The appellant emphasises that it is unusual for a golf club to not have an on-site compound, and that the proposal cannot easily be located elsewhere due to the potential harmful effect on the openness of the Green Belt. Whilst I note comments that an off-site facility involves wasted time and operational costs and that the pandemic eroded the viability of the business, I have no detailed evidence in relation to these aspects. As such, these matters are due only limited weight.
42. Whilst Policy DM3 of the DMP is supportive of facilities for outdoor sport and recreation, this does not offer any significant weight in favour of the appeal development or the alternative scheme on the basis that both have an adverse visual impact and give rise to a loss of amenity through noise and disturbance.

Green Belt balance

43. I found above that the appeal development is inappropriate development in the Green Belt and by definition it is harmful to the Green Belt; harm which the Framework indicates should be given substantial weight.
44. For the appeal on ground (a) to succeed, the weight of the other considerations must clearly outweigh the totality of the harm arising. I have given only limited weight to the considerations cited in support of the appeal development. Therefore, even with the proposed reduction in the number of storage containers and additional soft landscaping, I find that the harm by reason of inappropriateness, and additional harm to openness identified, are clearly not outweighed by other considerations. Very special circumstances do not exist to justify the development. The development does not comply with national planning policy in the Framework to protect the Green Belt.
45. Both the appeal development, and alternative scheme result in conflict with the stipulations of Policy CS6 of the CS and Policy DM13 of the DMP. These seek to protect the Green Belt from harmful development and require that new

buildings in the Green Belt are considered inappropriate in the absence of an applicable exception, and that such development is unacceptable in the absence of very special circumstances. Conflict arises also with Policy DM3 of the DMP which aims to ensure that proposals for outdoor sport/recreation in the Green Belt preserve openness and do not conflict with Green Belt purposes.

Conclusion on ground (a) and the DPA

46. For these reasons and taking into account all other matters raised, I find that in view of the fundamental conflict with Green Belt policy and given harm to living conditions and to the character of the area, the appeal development and alternative scheme conflict with the development plan, read as a whole. No material considerations advanced merit a decision other than in accordance with the development plan. Accordingly, the appeal on ground (a) fails and planning permission is refused in respect of the DPA.

The appeal on ground (g)

47. The appeal on ground (g) is that the period for compliance with the notice (being two months) falls short of what is reasonable.
48. The appellant requests a period of 9 months on the basis that an alternative maintenance arrangement would need to be sought, with permission from the Council as appropriate. The two month period specified would, in the appellant's view, jeopardise operation of the facility.
49. I can understand that the appellant needs time to make alternative arrangements in relation to maintenance of the golf course. However, I am conscious also that the appeal development causes ongoing harm to the Green Belt, along with visual harm and likely also material harm to living conditions of neighbouring occupants. A six month compliance period would therefore in my view strike the right balance in the circumstances. The appeal on ground (g) succeeds to this limited extent.

Overall Conclusion

50. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

51. It is directed that the enforcement notice is varied by: in paragraph 6 deleting the wording "Two (2) months" and substituting "Six (6) months".
52. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

V Bond

INSPECTOR