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# Appeal Decision

Site visit made on 15 July 2024

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 12 August 2024**

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**Appeal Ref: APP/N1540/W/23/3330310**

**Old Pitch & Putt Course, Park Lane, Harlow, Essex, CM20 2FL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by PJK Leisure Ltd against the decision of Harlow District Council.
- The application Ref HW/FUL/22/00208 was approved on 8 June 2023 and planning permission was granted subject to conditions.
- The development permitted is installation of footgolf course on former pitch and putt course.

The conditions in dispute are Nos 7 and 8 which state that:

*7. Prior to the expiry of 18 months from the date of commencement of the Footgolf facility hereby approved the existing 'kiosk' shall be removed from the site and the site made good.*

*8. Prior to the facility opening a scheme for the retention and re-location of the benches adjacent to Arbour Mews shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.*

- The reasons given for the conditions are:
    - 7. To avoid clutter within the Town Park and protect the appearance and character of the existing Listed Park and the setting of the Conservation Area and to comply with policies PL12 and PL1 of the Harlow Local Development Plan, December 2020.*
    - 8. To protect the amenities of Arbour Mews in accordance with policy PL2 of the Harlow Local Development Plan, December 2020.*
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## Decision

1. The appeal is allowed and the planning permission ref: HW/FUL/22/00208 for installation of footgolf course on former pitch and putt course at Old Pitch & Putt Course, Park Lane, Harlow, Essex, CM20 2FL granted on 8 June 2023 by Harlow District Council is varied by deleting condition 8 and substituting for it the following condition:
  8. Within 3 months of the date of this permission a scheme for the retention and re-location of the 4 benches adjacent to Arbour Mews identified on drawing PA.002 shall be submitted to and approved by the Local Planning Authority. These works shall be carried out in accordance with the approved details within 6 months of their approval.

## Preliminary Matters

2. During my site visit I saw that the benches the subject of condition 8 had been removed from the site. I invited comments from the main parties on what effect this may have on condition 8 but have had no response. As I have not been informed otherwise, I have determined the appeal on the basis that the condition has not been discharged.

## **Main Issues**

3. The main issues are:

- Whether condition 8 is reasonably necessary considering the effect of retaining the benches on the living conditions of residents in Arbour Mews with regard to noise and disturbance; and,
- The effect that removing condition 7 would have on the significance of the Grade II listed Town Park and the Nettleswell Cross Conservation Area.

## **Reasons**

### *Condition 8*

4. The benches as shown on the submitted plans were between the footgolf course and properties on Arbour Mews. In this area they were relatively clustered together along a short stretch of footpath with houses on Arbour Mews immediately to their rear. While the benches may have been on site for some time prior to the footgolf course, it is likely that users of the course would make use of the benches. This use of the benches, given their clustered siting, could cause significantly greater disturbance to the nearby residents than before the course opened, especially at peak times when the course may be in use throughout the day.
5. The appellant suggests that the Park Management team did not support relocation of the benches, but there is no evidence before me to show this. The appellant also states that the benches fall within the jurisdiction of the Park Management Team. However, they are shown within the red line on the submitted drawings and therefore their siting is of relevance to the footgolf course development.
6. Overall condition 8 is reasonably necessary to protect the living conditions of neighbouring residents. Undue noise and disturbance would be contrary to policy PL2 of the Harlow Local Development Plan (the LDP). This policy requires, amongst other criteria, that development will be supported which preserves or enhances the level of amenity of neighbours in the local area.

### *Condition 7*

7. The appeal site is part of the Grade II listed Harlow Town Park (the park). The park was laid out in the mid-20<sup>th</sup> century as part of the New Town development of Harlow and has subsequently been extended and refurbished. I find that it derives its historic significance principally from its open, landscaped character and the contribution that it makes to the wider area. The appeal site is also on the boundary of the Nettleswell Cross Conservation Area (the CA), which includes part of the wider park. I find that the CA derives its significance principally from the character and relationship of the buildings within it, as well as the contribution made by the park and other open space.
8. Within this context the kiosk in question is a relatively small feature in the park. However, it is a distinctive structure of brick construction and detailing and unique within its setting. It is also close to a footpath and the rear of houses on Arbour Mews, making it a prominent feature within the locale. At the time of my visit the kiosk had been graffitied, and the roof showed signs of disrepair.

9. This kiosk is not in use by the appellants, with a new kiosk being opened close to the first hole of the footgolf course. This kiosk is therefore redundant, and in its present condition is detrimental to the significance of the park as a designated heritage asset. As a redundant structure in deteriorating condition it detracts from the open and pleasant character of the park. Given its modest size relative to the park this causes less than substantial harm to the significance of the park as a designated heritage asset. Given the size of the kiosks and as each is outside of the CA I find that the existing kiosk has negligible impact on the significance of the CA.
10. The National Planning Policy Framework (the Framework) requires that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. Policy PL12 of the LDP states that development that affects a heritage asset will be assessed against national policies.
11. No public benefits have been identified in this instance. However, the appellants contend that the condition is not necessary, relevant to the development permitted or reasonable due to the financial cost involved in removing the kiosk.
12. The two kiosks are sited at opposite ends of the footgolf course and are therefore not often seen in the same view. Nevertheless, the presence of the new kiosk means that the older one is no longer required. To preserve the openness of the park the older kiosk must be removed, and therefore the condition is necessary.
13. The appellants have suggested that the removal of the kiosk is not relevant to the use of the site as a footgolf course. However, the installation of the new kiosk has made the older one redundant and therefore the condition is relevant to the development permitted.
14. No detailed figures have been provided to show the cost of removal of the kiosk set against the projected financial return of the footgolf course to show whether its removal is financially unreasonable. The condition allows a period of 18 months from first operation of the course for the kiosk to be removed, and this is a reasonable period to allow the financial impact to the appellants to be assessed in detail.
15. Removing condition 7 and allowing the retention of the kiosk would therefore result in harm to the significance of Town Park as a designated heritage asset, and there are no considerations to outweigh this harm. The appeal proposal would therefore conflict with policies PL12 of the LDP and the Framework's aim of conserving and enhancing the historic environment. It would also conflict with Policy PL1 of the LDP which, amongst other criteria, requires that development protects, enhances or improves local distinctiveness.

## Conditions

16. As the footgolf course is already operating it is necessary to vary the wording of condition 8 to remove the reference to it being discharged prior to commencement of the use. After my site visit I sought comments regarding the benches having been moved, but received no response from the main parties. I have therefore varied the condition to require submission of details for the relocation of the benches within 3 months of this decision, and for their

subsequent relocation within 6 months of the details being agreed. I am satisfied that this allows time for the parties to make suitable arrangements, absent any indication otherwise.

**Conclusion**

17. For the reasons given above the planning permission is varied as set out in the formal decision.

*M Chalk*

INSPECTOR