

PLANNING COMMITTEE – 17 DECEMBER 2019

PART I - DELEGATED

9 19/2002/RSP – Retrospective: Provision of earth bunds at OXHEY PARK GOLF CENTRE, PRESTWICK ROAD, SOUTH OXHEY, WATFORD, HERTFORDSHIRE, WD19 7EX (DCES)

Parish: Watford Rural

Ward: Oxhey Hall and Hayling

Expiry of Statutory Period: 13 December 2019

Case Officer: Matthew Roberts

Recommendation: That Retrospective Planning Permission be Granted.

Reason for consideration by the Committee: This application is brought before the Committee as the Council has an interest in the land as owner.

1 Relevant planning history at application site (driving range)

1.1 8/264/91: Golf course and driving range and ancillary buildings. Permitted.

1.2 8/686/91: Extension to height of fence to golf driving. Permitted.

1.3 14/0060/FUL: Upgrade the outfield by reshaping it to solve drainage issue and manage surface water flows and create an attractive outfield with contoured grass target greens. Manage the water via a rainwater harvesting scheme to be stored in a new pond to the north of the outfield for re-use in the summer for irrigation. The installation of the storage pond represents a change of use in the northern field. Permitted, not implemented.

2 Relevant planning history at golf course

2.1 95/0085: Erection of protective earth bund. Refused, for the following reason:

R1: The proposed bund by reason of its size, scale and form would be detrimental to the amenities of the surrounding area.

This protective bund was proposed 4m above the ground of the adjacent playground (sited to the south west of the golf course)

2.2 06/0488/FUL: Creation of 2m high security bund. Permitted and implemented.

2.3 09/0071/FUL: Re-contouring of bunds. Permitted.

3 Description of Application Site

3.1 The application site relates to a strip of land within the confines of the existing driving range known as Oxhey Park Golf Centre which abuts the highway verge, cycle and pedestrian path which forms part of Prestwick Road, in South Oxhey.

3.2 Within the application site earth approximately 1-1.5m high and 4-7m in depth has been deposited to form a bund and sits internally against existing high and well established metal and chain linked fencing. Other earth mounds of similar height have been created adjacent to the golf club house, in-front of the entrance and along the car park boundary to the south west.

3.3 The wider site (area enclosed in blue on the location plan) is under the control of the applicant and owned by the Council. This land includes the vacant driving range and the golf course on the opposite side of Prestwick Road.

3.4 In terms of policy designations the application site falls within the Metropolitan Green Belt.

4 Description of Proposed Development

4.1 This application seeks retrospective planning permission for the provision of earth bunds.

4.2 Within the application site earth bunds have been created at four different points. One bund has been created within the driving range and extends along its entire length, parallel to Prestwick Road, measuring approximately 62m. This bund has a height ranging from 1-1.5m and is approximately 4-7m in depth.

4.3 Another bund has been erected between the club house and established hedging and has a height of approximately 1m.

4.4 A bund has also been erected across the main access at a height of 1m and width of approximately 5m.

4.5 A further bund has been erected along the south western boundary within the car park and has a height of approximately 1.6m.

5 Consultation

5.1.1 National Grid: [No objection]

"Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

5.1.2 British Pipeline Agency Ltd: [No objection]

"We are not aware that any of BPA Pipelines apparatus, falls within the vicinity of the above noted location."

5.1.3 Watford Rural Parish: [No objection]

5.2 Public/Neighbour Consultation

5.2.1 Number consulted: 0

5.2.2 No of responses received: 0

5.2.3 Site Notice: Expired on 26.11.2019

5.2.4 Press Notice: Not applicable.

5.2.5 Summary of Responses:

5.2.6 None.

6 Reason for Delay

6.1 Committee cycle.

7 Relevant Planning Policy, Guidance and Legislation

7.1 National Planning Policy Framework and National Planning Practice Guidance

On 19th February 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2019 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

7.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2 and DM6.

7.3 Other

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

Planning Practice Guidance (PPG).

8 **Planning Analysis**

8.1 Overview

8.1.1 Following an unauthorised traveller encampment within the driving range the applicant has created earth bunds along both sides of the golf course as a security measure. This application is **solely** concerned with the bunds along the driving range side and not along the golf course.

8.1.2 The creation of bunds/embankments are generally classified as an engineering operation given that they involve the deposit of imported earth and the use of machinery. An

engineering operation falls within the meaning of development (section 55 of the Town and Country Planning Act 1990 (as amended)) for which planning permission is required. There are some instances when bunds could form a 'means of enclosure' which could be 'permitted development' (i.e. works that are automatically granted planning permission by virtue of the General Permitted Development Order 2015 (as amended)). For example Schedule 2, Part 2, Class A of the said Order permits the 'erection, construction, maintenance, improvement or alteration of a gate, fence, wall **or other means of enclosure**' up to a height of 2m or 1m if adjacent to a highway used by vehicular traffic.

8.1.3 The bunds which have been created along the driving range have been largely deposited behind existing fencing with other bunds laid across the access and within the car park. Such works are considered to fall outside the scope of Class A of the above Order and thus require planning permission.

8.1.4 The bunds along the golf course do not benefit from planning permission nor has an assessment been made as to whether they would be permitted development at the current time. Nevertheless, the bunds on both sides of the road have recently been altered to appear more uniform in height.

8.2 Impact on Metropolitan Green Belt:

8.2.1 Policy CP11 of the Core Strategy (adopted October 2011) sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 is supported by Policy DM2 of the Development Management Policies LDD (adopted July 2013) but predominately relates to the construction of new buildings/extensions.

8.2.2 In respect of national policy in the form of the NPPF it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that when considering proposals, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

8.2.3 The development subject to this application has not resulted in the construction of a new building but an engineering operation. As such, it could fall within the scope of paragraph 146 which states that 'certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within in'. One of these exceptions to inappropriate development relates to 'engineering operations' (para 146 (b)).

8.2.4 When assessing the impact of a proposal on the openness of the Green Belt, the PPG states that a number of factors should be taken into account. These include, but are not limited to, its spatial and visual aspects, duration of the development and the degree of activity likely to be generated.

8.2.5 The bund along the length of the driving range is no more than 1.4m high and is set immediately behind existing metal fencing. Given its location the bund is evidently visible along Prestwick Road. Whilst the bunds presence is highly notable, given its limited height and locational context, laid within a vacant driving range behind existing fencing, it is considered that the bund preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt.

8.2.6 The bunds adjacent and along the car park including entrance are also very similar in terms of their height and overall visual appearance, which in time will 'soften' and blend in with the site. As above, given their limited height and the fact that the bunds have been created using earth, they preserve the openness of the Green Belt.

- 8.2.7 The bund's purpose is to prevent future unauthorised access into the site following a recent encampment. As the site is vacant and has been for some time, this would weigh in favour of the development.
- 8.2.8 Given the established use of the application site, the bunds would not conflict with the purposes of including land within the Green Belt as set out within paragraph 134 of the NPPF. The development would therefore constitute appropriate development within the Green Belt, complying with Policy CP11 of the Core Strategy, Policy DM2 of the Development Management Policies LDD and the NPPF (2019).
- 8.3 Impact on character of area
- 8.3.1 The revised NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
- 8.3.2 Policy CP1 of the Core Strategy states that development should protect and enhance the natural environment from inappropriate development. Policy CP12 also states that all development proposals should have regard to the local context and conserve or enhance the character, amenities and quality of the area.
- 8.3.3 The bunds in their current form are not the most visually attractive features and during the course of the application process efforts were undertaken to re-profile the bunds across the entrance and along the car park. Notwithstanding their current appearance the bunds are relatively uniform in terms of their height and over time their stark earth like appearance will be softened naturally.
- 8.3.4 Within the locality and before the deposit of the bunds following the unauthorised encampment, earth bunds already existed at various points around the golf course towards Hayling Road and along Prestwick Road to the south. These are well established and much higher and far denser than those subject to the current application. As a result the bunds are not considered to appear out of character and their impact on the visual amenity of the street scene and area will diminish over time. Accordingly, the bunds would be acceptable and comply with Policies CP1 and CP12 of the Core Strategy.
- 8.4 Impact on neighbouring amenity
- 8.4.1 Due to the location of the bunds there are no immediate neighbouring properties which are affected.
- 8.5 Access
- 8.5.1 Whilst a bund has blocked the access into the site, it is currently vacant and thus there are no highway safety concerns.
- 8.6 Trees and Landscaping
- 8.6.1 There are no trees within the application site that are either protected or of high amenity value. As a result the bunds have not caused any harm to trees.
- 8.7 Wildlife and Biodiversity
- 8.7.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 8.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and

Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The site is not in or located adjacent to a designated wildlife site. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken and given the nature of the development there is no adverse impact on biodiversity.

8.8 Summary

8.8.1 In summary the bunds are considered to be appropriate forms of development within the Green Belt given they preserve the openness of the Green Belt and do not conflict with the purposes of the Green Belt. Whilst not currently visually attractive, the bunds are not unduly prominent nor do they appear out of character with the area. The bunds also serve the purpose of enhancing security which weighs in favour of granting planning permission. The development therefore complies with Policies CP1, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy, Policies DM2 and DM6 of the Development Management Policies LDD and the NPPF.

9 **Recommendation**

9.1 That RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development is carried out and is subject to the following condition:

C1 The earth bunds hereby permitted, shall be maintained in terms of their height and width in accordance with the details noted on drawing number 5432-01 Rev A.

Reason: For the avoidance of doubt, in the proper interests of planning, to preserve the openness of the Green Belt and to safeguard the visual amenity of the area in accordance with Policies CP1, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011), Policies DM2 and DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

9.2 **Informatives:**

11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable

development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.