

Appeal Decision

Site visit made on 16 May 2017

by **Amanda Blicq BSc (Hons) MA CMLI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 June 2017

Appeal Ref: APP/G5180/W/16/3165081

Dunkery Road Playing Fields, Mottingham, London SE9 4HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by E O Properties Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00608/FULL1, dated 4 February 2016, was refused by notice dated 17 June 2016.
 - The development proposed is single storey pavilion consisting of club house and changing rooms, 3 x mini soccer pitches, 1 x all weather pitch, 56 car parking spaces and enlarged access to Dunkery Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although not cited as a reason for refusal by the Council, interested parties have highlighted deficiencies in the ecological assessments accompanying the application. Given the current unmanaged state of the site, natural regeneration and its position adjacent to woodland, I have considered it appropriate to include consideration of ecological issues in my reasoning.
3. The drawings indicate that the entire length of the access track would be widened to 6 metres. However, the written evidence before me states that the highways issues highlighted by the Council in a previous application for a similar scheme on this site, would be addressed through the provision of an enlarged entrance only. As such, for the purposes of this appeal I have presumed that widening works are proposed at the entrance only.

Main Issues

4. The main issues are:
 - whether the development would represent inappropriate development within Metropolitan Open Land (MOL), including the effect of the proposal on the openness of the MOL;
 - the effect of the development on the safe and efficient operation of the highway;
 - the effect of the development on the future health and longevity of an oak tree on adjoining land;
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- the effect of the development on local biodiversity; and
- whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If it is, would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Policy background

5. The appellant argues that the policy basis of the Council's reasons for refusal is light. However, the London Plan¹ (LOP) was adopted after the National Planning Policy Framework (the Framework), and states that MOL should be afforded the same level of protection as the Green Belt. Furthermore, whilst the Local Plan² (LP) predates the Framework by some years, its policy in relation to development in MOL is largely consistent with the Framework's policies in respect of the Green Belt. Paragraph 215 of the Framework indicates that policies that predate the Framework, but which are consistent with it, should be given due weight according to that level of consistency. Consequently, as the appellant has not advanced any other argument in relation to the cited policies, I have given them full weight in my deliberations.

Inappropriate development

6. The site is a large area of sloping open space situated to the west of Lower Marvels Wood. It is bounded to the south and west by two-storey residential development and a medium height tower block. There is a bowling green and car park abutting part of the site's north-eastern boundary.
7. The evidence before me indicates that the site was formerly playing fields but the tussocky grass and rough ground conditions lead me to conclude that it is some years since the land was regularly maintained. Furthermore, the site is heavily populated with what appeared to be young, self-seeded trees, with oak being the predominant species. On the occasion of my visit, the site and adjacent woods were being used by dog-walkers, and it represents a notable and attractive natural green space within an otherwise densely populated urban area.
8. The proposals comprise the installation of a pavilion, an all-weather pitch with floodlighting and 56 bay car park, as well as an enlarged access point at the Dunkery Road entrance. There would also be three mini soccer pitches.
9. LP Policy G2 states that the construction of new buildings on land within MOL will be inappropriate unless for essential facilities for outdoor sport and recreation. The final point of the policy states that the openness and visual amenity of the MOL shall not be injured by any proposals for development within or conspicuous from the MOL which might be visually detrimental by reasons of scale, siting, materials or design. LOP Policy 7.17 states that essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.
10. The appellant argues that the pavilion and structures would be essential ancillary amenities for the recreational facilities proposed. I concur that the

¹ The London Plan, March 2015

² London Borough of Bromley, Unitary Development Plan, July 2006

Sport England guidance³ sets out recommendations for washing and changing provision, parking and communal social facilities. However, although the appellant's Design and Access Statement notes that the development would be a centre of excellence for disabled sport, there would be no accessible shower facilities. Furthermore, the inclusion of a bar, kitchen and social space in the pavilion appears disproportionate, given that the appellant's statement suggests the primary client base would be 'youngsters', who are unlikely to frequent the bar.

11. Consequently, I am not satisfied that the size and content of the pavilion is entirely reflective of the scale and nature of the external facilities and their proposed level of use. In addition, the development would lack outdoor storage for goal posts etc., a collection area for refuse or cycle stands, also recommended by Sport England for new clubhouses. Whilst these omissions could be addressed by condition, if the appeal was allowed, they reinforce my opinion that the pavilion's design is not wholly appropriate for its proposed use.
12. Turning to the effect of the development on openness, openness in the Green Belt is generally considered to mean freedom from development. There is nothing in the evidence before me to indicate that this approach should not be adopted here. The development would reduce the openness of the site both through the intrusion of built form into an area currently devoid of structures or buildings, as well as having an urbanising influence from the extensive car park and hardstanding area. Although I appreciate that the pavilion has been reduced in size from earlier applications and would be located closer to the bowling green, it would still be separated from the bowling green pavilion by some distance and would represent significant encroachment of unmanaged and undeveloped open space.
13. The officer's report notes that whilst the facilities may in principle be appropriate in themselves, in the context of land use within the MOL they nonetheless have an impact on openness. Furthermore, the Council's evidence indicates that there are football pitches and a pavilion on land abutting the appeal site as well as several other similar facilities in the area⁴. Whilst I acknowledge that policies in the LOP support the development of additional sport and recreational facilities in MOL, there is no evidence before me to indicate how the development would contribute to, or complement, an objectively assessed need for further recreational provision in the area.
14. In the absence of such evidence, I see no reason to disagree with the Council that additional sporting provision on this site cannot be considered essential to the recreational provision of the area. Although this is not determinative to my reasoning, it reinforces my concerns that the proposals would be inappropriate development. Furthermore, I find no inconsistency in the Council's position that whilst the facilities may be appropriate in principle, they nonetheless fail the tests set by policies LP Policy G2 and LOP Policy 7.17 in respect of impact on openness, as I have also concluded that the development would not maintain the openness of MOL. It would also be visible from a large proportion of the dwellings abutting the site boundary, as well as for people walking in and around Lower Marvel Woods and users of the bowling green.

³ Appellant's Statement, Appendix 4

⁴ Council's Statement, Appendix 2 and Clause 7.9

15. Consequently, I conclude that the development would significantly detract from the current openness of the site, and that therefore the proposals would be inappropriate development contrary to LP Policy G2 and LOP Policy 7.17.

Highway operations

16. The appellant has provided a traffic report⁵. Generally I have no reason to disagree with the data in respect of the traffic volumes to be generated by the stated use of the pitches. Whilst I note the age of the base data and consider its use is perhaps not wholly reliable for extrapolation purposes, I accept the premise that it is a good starting point.
17. A single lane track with one passing place would link Dunkery Road and the site. Dunkery Road has two running lanes, and is also a bus route. The traffic report suggests that the traffic generated by the development would not be significant, and that the potential impact of opposing vehicles queuing to enter or exit the site would be mitigated by the widening of the access road. However, the predicted movement of vehicles, given per hour in the report, would not be evenly spaced but would be concentrated at around the start and finish of each session. Furthermore, the coaching sessions would generally begin at 1700 hrs on weekdays, which would be likely to coincide with peak traffic flow on Dunkery Road. Cars leaving the site would be turning into the existing traffic flow, and right turning traffic entering the site would also have the potential to obstruct following vehicles.
18. The appellant's statement suggests that the effect of the development on the operation and safety of the highway could be addressed by widening the entrance to allow opposing vehicles to pass each other on an apron in front of the gate. This would mitigate the predicted short duration peaks of some 20 vehicles in each direction. However, there would be space only for two waiting vehicles in each lane, and given the width of the access road and limited opportunities for passing, I am not satisfied that there would be sufficient capacity in front of the gate to prevent backing up on Dunkery Road at peak hours. Consequently, I am not satisfied that the proposed mitigation would be sufficient to prevent congestion on Dunkery Road and attendant safety issues.
19. Furthermore, the traffic report states that it is likely some future users would be dropped off on Dunkery Road to avoid having to enter the site. I noted on my visit that parking on one side of the road at this location impedes the free flow of two way traffic. Consequently, dropping off would be likely to add to road congestion.
20. The traffic report states that at times of peak traffic on Dunkery Road, priority would be given to vehicles entering the site. However, this appears to support my concern that the traffic generated by the development could cause disruption on Dunkery Road. Furthermore, although the report notes that signage could be put up to this effect, I am not satisfied that this would be enforceable or necessary effective. In any case, this premise presupposes that the access track is free of vehicles beyond the gate, and I am not satisfied that this would be the case at peak periods.
21. I appreciate that Dunkery Road is a bus route and some users would use alternative modes of transport but given the availability of changing and

⁵ TTP Consulting, December 2015

washing facilities, users would be likely to be carrying changes of clothes, kit, towels and washing aids. As such, I consider it highly likely that most users would use private cars to visit the site and this is reinforced by the stated intention to develop the facility primarily for disabled users and youngsters.

22. I also have a concern that the data used to predict traffic flow may be limited, as it appears to be based around formal pitch sessions. The inclusion of a bar and communal area, as well as the stated intention to attract the community and senior citizens indicates that there may be a wider customer base, generating traffic at times unrelated to the formal pitch sessions. These trips do not appear to have been included in the traffic flow predictions.
23. To conclude, I consider that it is likely that there would be congestion arising from vehicles entering and exiting the site, and dropping players off, as well as an increase in on-street parking in the section of carriageway adjacent to the woods. This would have a detrimental impact on the safety and efficiency of the highway, contrary to LP Policy T18 which states that the Council will ensure development does not adversely affect road safety.

Oak Tree

24. Furthermore, the widening of the entrance in front of the gate would require excavation works within the root zone of a mature oak tree in Council ownership. The oak is located close to the existing tarmac footway and existing access track. The difference in ground levels between the base of its trunk and adjacent footway and track indicate that the effectiveness of its roots in supporting its growth will have already been compromised by previous construction works.
25. The tree has an imposing and straight central stem up to a height of some 7 metres. It was in full leaf at my visit and although I noted evidence of historic pruning, some deadwood and breakage of limbs within the canopy, the crown appeared relatively healthy. It is not stag-headed and I noted no obvious evidence to indicate it is likely to fail in the short to medium term.
26. The appellant has supplied an arboricultural report⁶. This concludes that the oak has signs of decay and has been prejudiced by the effect of nearby earthworks on its roots. I do not dispute these observations, and I also concur that the oak has probably passed its prime in terms of lifespan. However, my observations lead me to conclude that the oak still has significant amenity value and given the longevity of oaks, a significant period during which it can contribute to the amenity and biodiversity of the area. A replacement tree, as suggested by the appellant, would take many years to reach an equivalent stature and have the same visual impact as this particular tree.
27. The appellant is in receipt of an email from the Council's tree officer which indicates that there was agreement to fell the tree⁷. However, the Council's statement indicates that the planning officer took additional advice and the Council's considered position is that the oak has a useful life expectancy and should be not removed. As such, I give this email little weight in my reasoning. If the tree was retained, rather than felled and replaced, the development would also have significant adverse effect on the longevity and future health of the oak tree. Although the Council has not cited specific

⁶ Open Spaces, December 2016

⁷ Email dated 23 November 2016 from Mark Byfield to Graeme Drummond

policies in relation to the tree, Section 197 of the Town and Country Planning Act 1990 places a duty on councils to consider the protection of trees when decision making.

Biodiversity

28. The appellant notes that the ecological surveys carried out in 2012 are now out of date and suggests that further survey work could be carried out through condition, if the appeal was allowed.
29. Whilst I appreciate that supplying survey evidence adds to the cost of a planning application, there is sufficient information before me to indicate that the site may have ecological value and that the clearance of the site and its ongoing maintenance as playing fields might affect local biodiversity and displace established flora and fauna. Furthermore, it appears that the previous ecological survey addressed only whether there were likely to be reptiles on the site. The evidence before me indicates that the site and adjacent woodland currently have diverse wildlife.
30. As such, I concur with the Council that the site has an amenity value by virtue of its apparent undeveloped nature, and that its position and uncultivated status next to Lower Marvels Wood, gives it ecological and biodiversity value.
31. In the absence of appropriate ecological survey information the application fails to demonstrate that the development would minimise its impact on biodiversity or provide net gains, as required by Paragraph 109 of the Framework.

Other matters

32. Interested parties have raised concerns in respect of property values, noise and disturbance, and drainage but as I have found harm in respect of the main issues it is not necessary for me to consider these matters further. In any case, if the appeal was allowed the operational hours could be controlled by condition to mitigate noise and disturbance.
33. Representations have also queried the appellant's business background, but it would be inappropriate for me to comment on such matters and in any case, it is not determinative to the appeal.

Other considerations

34. The appellant argues that the development would have a social benefit in respect of encouraging activity and addressing the issue of childhood obesity. However, as I have noted above, the local area does not appear to be deficient in recreational facilities and as such I give this argument limited weight.
35. The appellant also argues that the development would have environmental benefits but it is unclear what these would be, over and above the provision of recreational facilities. I appreciate that the construction phase of the development would have some local economic benefits but these would be short-lived and would not outweigh the harm I have identified above.
36. The appellant argues that the test of appropriateness should be calibrated with the scale of development. I acknowledge that the proposals have been scaled down in size since the initial application but each case is determined on its merits.

Conclusion

37. The proposed development would be inappropriate development by virtue of its harmful visual impact and loss of openness. I give substantial weight to this harm. There would also be adverse effects on biodiversity, and highway safety and efficiency.
38. Whilst I appreciate that the development would augment existing recreational facilities, I give limited weight to such facilities in an area where there appears to be an extensive range of existing provision. As such, these other considerations do not clearly outweigh the totality of harm identified above. Consequently, very special circumstances do not exist.
39. For these reasons I conclude that the development would be contrary to relevant policies in the Framework and the Council's Local Plan, and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR