



Appeal Decision

Inquiry Held on 28 February 2022 to 4 March 2022 and 4 April 2022

Site visit made on 7 March 2022

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th May 2022

Appeal Ref: APP/D0650/W/21/3285817

Widnes Golf Course, Highfield Road, Widnes, WA8 7DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Anwyl Homes Lancashire and Widnes Golf Club against Halton Borough Council.
 - The application Ref 21/00471/FUL, is dated 29 July 2021.
 - The development proposed is for the erection of 233 dwellings, reconfiguration of golf course, demolition of existing club house and associated buildings and the erection of new club house and green keepers store, creation of new vehicular accesses, roads, car parking, green footpath link and ancillary development.
-

Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary matters

2. The appeal results from a failure by the Council to determine the application within the prescribed period. However, as part of the appeal the Council confirmed that, had it been in a position to determine the application, it would have refused it for reasons relating to the use of the site as an existing 18-hole golf course, the effect of the proposed development on designated green space, highway safety, concerns relating to flood risk and the effect of the proposed development on trees, including protected trees. It also raised concerns with the effect of the proposal on the character and appearance of the surrounding area.
3. During the inquiry, the Council adopted the Halton Delivery and Allocations Local Plan 2022 (DALP) which now forms the main development plan document for the area. Accordingly, it is against the policies of the DALP that I have considered the proposal.
4. As a result of changes made following the adoption of the DALP, the Council informed me that it no longer wished to pursue its objection in relation to designated green space and, as such, I have not dealt with that issue below.

Main issues

5. The main issues are:

- (i) whether the site offers an acceptable location for the proposed development having regard to its current use as an 18-hole golf course;
- (ii) the effect of the proposed development on highway safety;
- (iii) the effect of the proposed development on flood risk and drainage;
- (iv) the effect of the proposed development on the character and appearance of the surrounding area and trees, including protected trees.

Reasons

Acceptability of location/existing use

- 6. The proposal would involve the redevelopment of Widnes Golf Course, an 18-hole golf course located within the urban area of Widnes. It would provide 233 dwellings, reconfiguration of the golf course to provide a 9-hole facility, demolition of the existing club house and associated buildings, the erection of a new club house and green keepers store along with other ancillary development including new vehicular accesses, car parking and a new footpath link.
- 7. Policy HE6 of the DALP restricts development likely to result in an unacceptable loss of existing sport or recreation facilities unless it can be demonstrated, amongst other things, that (i) the site or facility is surplus to recreational requirements and is not capable of helping to meet any of Halton's identified needs or (ii) that replacement sport and recreation provision of at least the same or better quantity and quality in a suitable location is provided to meet the needs of the existing sport and recreation facilities.
- 8. This accords with Paragraph 99 of the National Planning Policy Framework ("the Framework") which makes clear that existing open space, sports and recreational buildings and land should not be built on other than in a limited number of defined circumstances.

Surplus to requirements

- 9. The appellants' Golf Needs Assessment¹ (NA) indicates that current membership numbers at Widnes Golf Club are in decline and that it is potentially unsustainable for the club to function as an 18-hole golf course if the decline in membership continues. Furthermore, it notes that there would be sufficient capacity to support a 9-hole facility whilst retaining the ability to play an 18-hole course (by playing the 9-holes twice). It points to capacity elsewhere within the 20-minute drive time catchment area which it claims could absorb any displacement and notes that there is currently no 9-hole provision in the catchment resulting in a gap in the market. Taken together, it argues that this demonstrates a surplus in provision sufficient to meet the requirements of DALP Policy HE6 and Paragraph 99 of the Framework.
- 10. I do not agree. In order to satisfy the requirements of DALP Policy HE6 and Paragraph 99 of the Framework, it is not sufficient to show that there is alternative provision or capacity elsewhere that could absorb any displacement. Instead, what is required is a clear demonstration that the land and/or buildings to be built on are surplus to requirements. This, as a minimum,

¹ SD035.

requires an assessment as to the number of courses required to meet the estimated need for golf facilities within a given locality.

11. While I acknowledge there are a number of methodologies which can be utilised, the NA fails to undertake such an assessment or draw any clear conclusions on what the specific golfing needs of Halton residents are or what facilities are required to meet them. Furthermore, the membership information presented is now of some age and fails to take account of existing demand for pay-to-play provision. At best, it provides only a high-level summary and one which is no longer reflective of the current situation.
12. Moreover, that the new 9-hole facility would function effectively, that existing membership would be capable of supporting the reduced provision or that the new facility would fill a gap in the market for a different offering does not demonstrate that there is a surplus of provision in a particular catchment. Likewise, the ongoing viability of Widnes as an 18-hole golf course, while providing useful context, adds little.
13. Overall, I am not persuaded that the appellants have demonstrated that the site is clearly surplus to requirements. Consequently, I do not consider the requirements of DALP Policy HE6 or Paragraph 99 of the Framework have been met in this respect.

Equivalent or better provision

14. Both DALP Policy HE6 and Paragraph 99 of the Framework make clear that any replacement provision relates to equivalence or betterment both in terms of quality and quantity.
15. The appellants accept that the proposal would result in the loss of 9 holes from the existing 18-hole course. However, they argue that it should not be deemed to be a quantitative loss as the reconfigured 9-hole course could be played through twice, enabling players to still play an 18-hole round of golf.
16. I acknowledge that the remodelled provision would continue to provide a range of par-5, par-4 and par-3 holes which would, in that sense, be comparable to the existing course. However, while I accept that the repositioning of the tees and the suggested layout would enable *some* variety in game play, overall, I do not accept there would be any material change for the majority of the holes.
17. While I accept that in some circumstances the reconfiguration of an 18-hole facility to a 9-hole course might contribute to the demonstration of an equivalence of provision, (for example where, as in the Bicester appeal², it is combined with a new and improved facility³), the ability to play through 9 holes twice, in itself, does not. Indeed, if it did, the same argument could be said to apply to any number of 18-hole courses throughout the country which, with only some minor reconfiguration, could be said to offer an equivalence of provision notwithstanding the loss of half of the holes.
18. In the present case, whether I accept the Council's starting point of the loss of an 18-hole course or the appellants' position that it is only the front 9-holes which would be lost, other than the ability to play through the remaining 9-holes at the newly configured Widnes Golf Course twice, no new provision is

² Appeal Ref: APP/C3105/W/20/3259189.

³ In that case a new driving range and academy course (neither of which is proposed in the current proposal).

proposed. Instead, the appellants point to improvements to the car park, club house, changing rooms and greenkeepers store as well as arrangements for the use nearby Blundells Hill.

19. While I observed during my site visit that the current facilities at Widnes Golf Club are in need of updating, the new facilities would merely replace the buildings and ancillary structures that would be lost as a result of the proposed development. They would provide little in the way of replacement for the loss of the main element of golfing provision, i.e. the loss of holes.
20. Turning then to the replacement provision that the appellants claim would result from the acquisition of Blundells Hill, this is not new provision but rather an intensification of use of existing provision. While I accept that it might provide some additional benefit in terms of golfing pathways, I do not consider the ability to play at other existing courses, whether as a result of their capacity or because of joint management arrangements, provides replacement provision of the sort envisaged by either DALP Policy HE6 or Paragraph 99 of the Framework.
21. Likewise, while I note the other improvements proposed to Blundell's Hill, these are themselves limited and generally ancillary in nature. As with the works proposed for Widnes Golf Club, while they provide some improvement to the general facilities available, they are insufficient to provide replacement provision for the main element of golfing provision that would be lost.
22. Indeed, the fact remains that the proposal would result in an overall reduction of 9 holes for which no *new* provision is being provided as a replacement. As such, I do not consider the proposal would result in replacement or better provision in terms of either quality or quantity.

Overall conclusion

23. Accordingly, I do not consider the appellants have clearly demonstrated that the site is surplus to recreational requirements. Nor do I consider that replacement provision of at least the same or better quantity and quality would be provided. As such, I find the proposal would result in the unacceptable loss of a sporting facility and would be in conflict with DALP Policy HE6 as well as Paragraph 99 of the Framework.

Character, appearance and trees

24. The appeal site is located within the urban area of Widnes and forms part of the Mersey Community Forest. It consists of open spaces, individual trees and groups of trees, along with areas of woodland, some of which are protected by a Tree Preservation Order (TPO)⁴. The site is partly screened from the road, although there are views across the site from a number of nearby residential premises as well as glimpsed views from the public realm, including along Liverpool Road and Woodland Avenue.
25. DALP Policy HE1 permits development on non-designated sites and habitats provided, amongst other things it does not result in the loss of important features such as trees and woodland. Furthermore, DALP Policy HE5 makes clear that planning permission will not normally be granted where a proposal

⁴ Halton Borough Council (Widnes Golf Course, Highfield Rd. Widnes) Tree Preservation Order: 126 (2021) ("the TPO").

adversely affects trees, woodlands and hedgerows which are protected by a TPO. Indeed, there is a presumption in favour of retaining and enhancing existing trees and woodland cover on site. The Council has raised concerns both in relation to the proposed loss of trees and the protection afforded to those which would be retained.

26. These concerns are well founded. The proposal would involve the loss of around 17 individual trees and 54 tree groups within the site and along its boundary with Liverpool Road. These would include a number of trees currently protected by the TPO. While I note the appellants' Arboricultural Impact Assessment⁵ (AIA) proposes mitigation in the form of new planting, including a greater range of species than would be removed, this would take some time to mature (up to 20 years). In the intervening period, the loss of such a large number of trees and associated canopy cover (initially around 1.8ha) would be harmful both to the site itself, its immediate surroundings and the Mersey Community Forest more widely.
27. Furthermore, the proposal would result in the loss of a number of trees along the boundary with Liverpool Road, partly in order to construct the two proposed accesses. This area of woodland currently makes a positive contribution to this part of Widnes (recognised by its inclusion in the recently made TPO) and provides a considerable amount of visual relief from the surrounding built form. While I acknowledge the AIA makes suitable provision to protect the majority of retained trees on the site, the proposed removal of a considerable number of mature trees along this section of highway would materially erode the visual contribution the site makes to its surroundings, negatively impacting on local distinctiveness.
28. Moreover, whereas at present, glimpsed views of the open and spacious golf course are possible through the trees, these would be replaced in large part by a considerable amount of residential built form. This would exacerbate the above harm, further eroding the local distinctiveness and materially harming the character and appearance of this part of Widnes.
29. Overall, I concur with the Council that the proposal would negatively impact on existing trees, including protected trees. It would erode local distinctiveness and would be materially harmful to the character and appearance of this part of Widnes. As such, it would be contrary to DALP Policies CS(R)20, HE1 and HE5.

Highway safety

30. The proposal would involve the creation of two new accesses along Liverpool Road, a busy commuter route running along the southern boundary of the appeal site. While the main parties agree that there would not be a severe impact on the functioning of the road network, the Council has raised concerns with the siting of the eastern access directly opposite the entrance to the former St Raphael's Church.
31. I visited this section of Liverpool Road a number of times during the day and noted that while it was widely used by both vehicles and pedestrians during school opening and closing times, at other times of day use (both pedestrian and vehicular) was much lower. Furthermore, I noted that the access to the former St Raphael's Church was rarely used. While I accept that this was only a

⁵ SD009.

snapshot in time, it does accord with the appellants' traffic survey which similarly indicates low levels of use both in the number of vehicles seeking access to that property and their frequency.

32. Moreover, I observed that visibility along this section of Liverpool Road is generally very good and drivers in both directions are able to see oncoming traffic. I see no reason that a reasonably alert driver travelling within the speed limit would not be aware of oncoming vehicles seeking to perform a conflicting turning manoeuvre.
33. While I acknowledge it is a conflict point that needs to be designed out, drawing 2224-F08 indicates that a suitable layout can be devised to ensure that, where drivers were to seek to make conflicting turns, they are able to perform the manoeuvre without significant risk of collision. Likewise, while I acknowledge the Council's concerns as to the knock-on effect this might have on other aspects of the proposal, I see no reason that these could not be overcome without resulting in the need to significantly alter the proposed layout.
34. Overall, I consider that the Council's outstanding concerns could adequately be addressed by means of a suitably worded condition so as to ensure that a suitable road layout could be achieved which reduces any resultant risk to an acceptable level. Consequently, I do not consider the proposal would be materially detrimental to highway safety and find no conflict with DALP Policy C1 or Paragraph 110 of the Framework in this respect.

Flood risk and drainage

35. DALP Policy CS23 requires that development should not exacerbate existing flood risk nor place residents at risk from inundation from flood waters. Likewise, DALP Policy HE9 makes clear that development will only be permitted where it would not be subject to unacceptable risk of flooding and that, where practicable, existing flood risks should be reduced. It also seeks to ensure that development in an area susceptible to flooding should include flood resistance and/or resilience measures and that proposals should demonstrate that residual risks can be safely managed.
36. These policies accord with the Framework which advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Furthermore, it makes clear that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
37. The appeal site is located in Flood Zone 1, in an area at low probability of fluvial or tidal flooding. However, the proposal would include a number of dwellings located within the floodplain of Moss Brook where the risk of flooding is greater.
38. The parties agree that the proposed development cannot be located at an alternative site at a lower risk of flooding. However, the Council is concerned that the appellants have not provided evidence to demonstrate that it would not have been possible to locate the affected housing elsewhere within the site or provided an overriding reason for not doing so.
39. While I accept that only a small area is affected, and that the extent of potential flooding is not significant, Paragraph 167 of the Framework makes

clear that development should only be allowed in areas at risk of flooding where it can be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location. In the present case, no such reasons have been provided. Indeed, as the Council notes, the proposal would locate some of the most vulnerable parts of the development in an area at highest risk of flooding while locating less vulnerable elements in areas at lowest risk.

40. Nevertheless, while I acknowledge the importance of applying the sequential approach within the site, the appellants have carried out a series of modelling scenarios which indicate shallow flood depths across the affected area. Furthermore, the Flood Risk Assessment⁶ recognises this risk and has, in response, proposed a number of flood mitigation measures including flood storage areas and the control of run-off rates to ensure that the risk is suitably mitigated. It also proposes the erection of a bund to prevent flooding of the rear gardens of the properties on Woodland Avenue.
41. Taken together, I accept that these measures will ensure that the development will be made safe for its lifetime and would not have an unacceptable impact on flooding elsewhere. Indeed, the risk of flooding at the rear gardens of Woodland Avenue would not increase even in the event that the proposed mitigation was to fail.
42. Accordingly, I do not consider the proposal would exacerbate existing flood levels, or result in an unacceptable risk of flooding, either on site or elsewhere and accept that any residual risks can be safely managed. As such, both national and local policy aims would be achieved.
43. Turning then to drainage, the Council has also raised concerns with the lack of any infiltration analysis to inform whether or not sustainable infiltration drainage techniques could be incorporated into the proposed development. While it accepts that if the testing were to indicate that infiltration was not possible, the current solution of discharge into Moss Brook would be acceptable, they argue that further exploration should be undertaken to completely rule it out.
44. I consider the Council's approach overly cautious. DALP Policy HE9 requires proposals to demonstrate how they will manage surface water run-off in accordance with a defined drainage hierarchy, but this needs to be approached on a proportionate basis. In the present case, the appellants' geotechnical investigation report⁷ indicates that the majority of the site is covered by cohesive superficial deposits, and that the use of infiltration is not likely to be a suitable surface groundwater drainage option.
45. While I note that the Council may wish to see further work carried out to completely rule out such techniques, I see no reason that such work cannot adequately be secured by means of a condition.
46. Likewise, while I acknowledge the Council's concerns in relation to the loss of the watercourse and the impact this would have on biodiversity, these matters did not form part of the Council's substantive case and the Council has not provided any robust evidence to indicate that unacceptable impacts would arise

⁶ SD013 and SD014.

⁷ SD032.

47. Consequently, I find no conflict with DALP Policies CS23 or HE9 or with the approach to flood risk advocated by the Framework. Likewise, I consider any outstanding concerns in relation to drainage could adequately be dealt with by means of a condition.

Planning obligations

48. The appellants have submitted a duly executed Unilateral Undertaking which contains a number of obligations contingent on the granting of planning permission. These include obligations in relation to how the proceeds of sale may be used, obligations requiring the carrying out of improvement works to both Widnes Golf Club and Blundells Hill, management of open space and for the provision of affordable housing.
49. Those which relate to the proceeds of sale and the carrying out of works to both Widnes Golf Club and Blundells Hill are intended to provide equivalent or better provision in replacement for the loss which would result from the residential development on the southern part of the site. As I have made clear above, I do not consider they would provide suitable replacement provision and, as such, I do not consider it necessary to consider these obligations in any further detail.
50. Similarly, while I accept the proposed areas of open space may be accessible to the wider public, they are, in the main, intended to mitigate the impact of the development. As I am dismissing for other reasons, it is not necessary to consider these obligations further.
51. However, the obligations in respect of affordable housing provide a potential benefit which may weigh in favour of the proposal and would meet the requirement of DALP Policy CS(R)13 to deliver 25% affordable housing on greenfield sites.
52. I note that the drafting and approach adopted by the appellants was the preferred approach of the Council and, notwithstanding my concerns, I accept that the obligation is directly related to the development, is reasonably related in scale and kind and is necessary to make the development acceptable in planning terms. As such, I consider it meets the relevant tests and weighs positively in favour of the proposal. I consider this further in the planning balance below.

Other matters

53. The Council has also indicated that they consider the proposal would be in conflict with DALP GR1 and GR2. However, both of these are design-based policies and in the absence of any specific concerns regarding design I have not considered them further.
54. Likewise, in view of its location within the urban area, I find no conflict with Paragraph 174(b) of the Framework which is primarily concerned with recognising the intrinsic character and beauty of the countryside.
55. While I note the Council's suggestion that development on the flood plain of Moss Brook would limit any potential to use the land for a flood risk function, no evidence has been presented which would indicate that the Council has any such plans for this site, whether in relation to flood risk alleviation or otherwise.

Planning balance

56. The appellants have argued that there is no evidential basis to support the application of DALP Policy HE6 to golf facilities and that, notwithstanding its recent adoption, it should be considered out of date. They point to an absence of golf in the range of sports and activities referenced in Paragraphs 12.63 – 12.65 of the DALP. In addition, they argue that Paragraph 98 of the Framework casts doubt on the extent to which DALP Policy HE6 can be applied due to there being an absence of any specific assessment on golf need.
57. There is nothing before me which would indicate that DALP Policy HE6 was not intended to be of general application to all sports and recreational land and buildings or was intended to exclude sports and recreation facilities not explicitly referenced in the Policy or its explanatory text. Indeed, it makes clear that it applies to *all* existing sites and facilities that have a recreational use or value.
58. Furthermore, while Paragraph 98 of the Framework indicates that policies should be based on robust up-to-date assessments of the need for open space, sport and recreation facilities, it is concerned with ensuring that Councils take an evidence-based approach to meeting their needs and in dealing with any surpluses or deficits in provision. While I acknowledge that where such assessments have been undertaken, they provide a useful yardstick against which to assess proposals, I do not accept that an absence of any such assessment affects the general application of DALP Policy HE6 or Paragraph 99 of the Framework to all sports and recreational land and buildings.
59. Accordingly, I do not agree that Policy HE6 should be considered out of date and as such, do not consider that Paragraph 11(d) of the Framework is engaged.
60. Nevertheless, I acknowledge that the proposal would make a meaningful contribution to both market and affordable housing locally. Indeed, it is the government's aim to significantly boost the supply of housing, both market and affordable. In that context, notwithstanding the Council's demonstrable 5-year housing land supply, I afford the provision of a further 233 homes in Halton, 25% of which would be affordable, significant weight.
61. In addition, the appellants have identified a number of other benefits including the provision of a neighbourhood equipped area of play/multiple use games area, new areas of open space and pedestrian links as well as economic benefits during construction and ongoing support for local services. However, while I acknowledge that they will be of some benefit to local residents more generally, they are, both individually and cumulatively, modest in the benefits they provide. As such, I afford them only a moderate amount of weight.
62. Nevertheless, the Framework makes clear that planning decisions are not just about housing and that a balance must be struck. It also reiterates the fundamental requirement that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.
63. Although I have found above that the proposal would not result in an unacceptable risk of flooding and would not be detrimental to highway safety, I have also found that it would be harmful to the character and appearance of

the surrounding area, would negatively impact on trees, including protected trees, and would result in the unacceptable loss of an existing sports facility.

64. As such, the proposal would fail to accord with DALP Policies HE6, CS(R)20, HE1 and HE5. These policies are fundamental to the effective operation of the development plan and accordingly, I afford them substantial weight. In addition, it would fail to accord with national policy as set out in Paragraph 99 of the Framework.
65. Consequently, notwithstanding its contribution to market and affordable housing and the other benefits outlined above, I find the proposal would be contrary to the development plan as a whole.

Conclusion

66. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed, and planning permission refused.

Rory Cridland

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Mr John Hunter of Counsel

Instructed by Halton Borough Council

Called:

Ms Xanthe Quayle BSc (Hons), DipLA, CMLI

Mr Jonathan Cocking FRES, P. Dip Arb (RFS), F Arbor A, C.Biol, MBS, FLS.

Mr Philip Peak

Mr Charles Dennison BSc (Hons), MSc, MCIWEM, CWEM,

Mr Mark Smith BA, MRICS, MBA

Mr Jeff Eaton BA (Hons), Dip.TP, MRTPI

FOR THE APPELLANTS

Mr John Barrett of Counsel

Instructed by Barton Willmore LLP

Called:

Mr James Aldridge BEng (Hons), MSc, MCIWEM

Mr Steven Wright BA (Hons)

Mr Philip Wooliscroft MSc, HNC

Mr Angus Blankenstien BSc (Hons)

Mr Dan Mitchell BA (Hons), PgDip, MRTPI

Ms Lisa Tye

OTHER INTERESTED PARTIES WHO SPOKE AT THE INQUIRY

Councillor Andrea Wall

Mr Mick Millea

Mr Eddie Dourley

Ms Louise Jaras

Ms K Conor

Ms Shone

Councillor Bob Gilligan

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appellants' duly executed Unilateral undertaking
2. Appellants' opening statement
3. Council's opening statement
4. Written statement of Cllr Andrea Wall x 2
5. Written statement of Mr Eddie Dourley
6. Written Statement from Mr Millea
7. Halton Delivery and Allocations Local Plan Policies Map
8. Halton Delivery and Allocations Local Plan (March 2022: Pre-publication version)
9. Halton Delivery and Allocations Local Plan (March 2022: Publication version)
10. Appellants' DALP Compliance Position Statement
11. Appellants' note on arboricultural matters arising during planning inquiry
12. Council's response to appellants' note on arboricultural matters arising during planning inquiry
13. Widnes Golf Club – Position Statement on Unilateral Undertaking
14. List of proposed conditions
15. LPA's Position Statement on St Michael's Golf Course
16. Appellants' position statement on St Michael's Golf Course
17. LPS's Response to Appellants' position statement on St Michael's Golf Course
18. Community Amateur Sports Club Guidance (HMRC)
19. Council's written closing
20. Appellants' written closing

END