

Application No: 13/3605M

Location: THE HIGH LEGH PARK GOLF CLUB, WARRINGTON ROAD,
MERE, CHESHIRE, WA16 0WA

Proposal: Variation of condition 10 attached to planning permission 13/0932M.
(before the use of lighting is commenced, an artificial light/illumination
validation test shall be completed and the results submitted to and
approved in writing by the Local Planning Authority.
Golf Academy and Driving Range.

Applicant: Mr Andrew Vaughan

Expiry Date: 24-Oct-2013

**SUMMARY RECOMMENDATION: APPROVE subject to conditions
MAIN ISSUES**

Impact of the proposed variation of condition on:

- Amenity and living conditions of nearby residential properties
- Impact on landscape and Green Belt

REASON FOR REPORT

The application has been referred to the Northern Planning Committee by the Northern Area Manager because the original application (13/0932M) for a Golf Academy and Driving Range was determined by the Northern Planning Committee.

DESCRIPTION OF SITE AND CONTEXT

The application site is known as High Legh Park Golf Club – which is a 27 hole golf course of approx 82ha in the open countryside. The site itself is in the North Cheshire Green Belt and is situated off the A50 Warrington Road.

There is an existing clubhouse visible from Warrington Road, with maintenance facilities on another part of the site near to Broadoak Lane. Wrenshot Lane runs across the middle of the course.

To the west of the course is the village of High Legh. The large detached houses that are off Candelan Way share boundaries with the course. There are isolated detached houses on Wrenshot Lane.

The site is located in a gently undulating landscape which is characterized by open fields, many enclosed by hedges, and blocks of woodland. The site and the area around it does not have any special landscape designation.

DETAILS OF PROPOSAL

The proposals relate to the variation of Condition 10 attached to permission ref 13/0932M. That condition related to the submission of a lighting validation test. The applicant is suggesting an alternative wording for the condition.

That permission was for a golf academy and driving range building and associated lighting and screens.

RELEVANT HISTORY

13/0932M Golf Academy and Driving Range approved 05-Aug-2013

POLICIES

Regional Planning Policy

The North West of England Plan Regional Spatial Strategy to 2021 (RSS) was abolished on 20 May 2013 and therefore the policies within this document carry no weight.

Local Plan Policy

The policies within the Macclesfield Local Plan 2004 have been 'saved' by the Secretary of State prior to the production of the Cheshire East Local Plan.

Para 215 of the NPPF indicates that relevant policies in existing plans will be given weight according to their degree of consistency with the NPPF.

Macclesfield Borough Local Plan – saved policies (MLP)

NE11 Nature Conservation

NE17 Nature Conservation in Major Developments

GC1 Green Belt – New Buildings
DC3 Amenity
DC6 Circulation and Access
DC33 Outdoor commercial recreation
DC64 Floodlighting

Other Material Considerations

National Planning Policy Framework
Cheshire East Local Plan Draft Development Strategy
Ministerial Statement of 23 March 2011 on "Planning for Growth"
Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994.
The SPG on Floodlighting (Originally adopted June 1998; policy in MBLP Jan 2004; SPG reproduced April 2005)

CONSULTATIONS

High Legh Parish Council – High Legh Parish Council wish to keep in the words "and independently verified" in Condition 10:

10. Before the use of the lighting is commenced, an Artificial Light/Illumination Validation Test shall be completed and the results submitted to and independently verified and approved in writing by the Local Planning Authority.

We agree with the amendments in 10 c) and d).

Environmental Health - After further consideration of the issue and the reasoning for condition 10: protection of residential amenity by way of light overspill from the proposed development (light overspill occurs when light enters property from a light source outside of that property).

Artificial light from the proposed golf driving range shall be commensurate and shall not exceed the existing ambient luminance arising from both natural and artificial illumination sources at this location.

To clarify our position, no light overspill shall occur beyond the applicant's boundary. This Directorate recommends the following amended wording (in order that the applicant is informed the design specification and to ensure the conditions enforceability):

Before the use of the development is commenced, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and independently verified and approved in writing by the Local Planning Authority.

Such validation test shall:

a) Be completed in accordance with an approved method statement.

- b) Be completed by a suitably qualified Lighting Engineer/ Consultant.
 - c) Demonstrate that no artificial light overspill occurs at the boundary of the residential properties to the North of the golf driving range.
 - d) In the event of light overspill from the golf driving range, a further scheme of artificial light (illumination) attenuation works capable of achieving “no light overspill at the boundary of the residential properties to the North of the golf driving range” shall be submitted to and independently verified and approved in writing by the Local Planning Authority.
 - e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained unless otherwise agreed in writing with the Local Planning.
- Reason: In the interests of amenity having regard to the location of the site in accordance with policy DC3 of the Macclesfield Borough Local Plan 2004.

OTHER REPRESENTATIONS

Letters of Representation from The Damsons and Park Cottage objecting on the grounds that:

- Applicant's draft amended condition 10 (as set out on the submitted application forms) would not satisfactorily achieve the level of control that the Environmental Health department originally required

In order to remove the ambiguity caused by the current wording of condition 10 the local planning authority should allow a variation of condition 10, but that criteria b), c) and d) but request that this should be reworded in the following (or equally similar) way:

10. Before the use of the development is commenced, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and independently verified and approved in writing by the Local Planning Authority. Such validation test shall:
- a) Be completed in accordance with an approved method statement.
 - b) Be completed by a suitably qualified and independent Lighting Engineer/ Consultant who's appointment should be approved by the local planning authority.
 - c) Demonstrate that the illumination level: zero Lux additional to the existing Lux level resulting from the development hereby permitted at the boundary of the residential properties to the North of the golf driving range has been achieved.
 - d) In the event that the specified Lux level has not been achieved, a further scheme of artificial light (illumination) attenuation works capable of achieving the specified zero Lux additional to the existing Lux level resulting from the development hereby permitted level shall be submitted to and independently verified and approved in writing by the Local Planning Authority.
 - e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained

unless otherwise agreed in writing with the Local Planning.

-concern is also raised that any '*further attenuation works*' (in whatever form of development they may take) would have an even greater impact on the openness of the Green Belt and significantly injure residential amenity.

OFFICER APPRAISAL

This is an application under section 73 of the TCPA 1990 (as amended) to vary a condition on an extant permission which has not been implemented.

Conditions should normally be consistent with national planning policies as expressed in Government Circulars, Planning Policy Guidance notes, Minerals Policy Guidance Notes and other published material. They should also normally accord with the provisions of development plans and other policies of local planning authorities.

Circular 11/95 sets out the tests that planning conditions need to satisfy:-

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

On a number of occasions the courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the court's criteria for validity, the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants.

In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.

Principle of Development

Planning permission has been granted for the golf academy and driving range with associated lighting and landscaping. The principle of development has already been accepted. The variation of condition as suggested by Officers (and informally agreed by the applicant) is in line with the requirements of Environmental Health and would continue to provide appropriate protection to living conditions and the amenities of the nearest residential properties and would protect the character of the wider landscape and Green Belt.

Condition 10

Condition 10 reads as follows:-

'Before the use of the development is commenced, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and independently verified and approved in writing by the Local Planning Authority. Such validation test shall:

- a) Be completed in accordance with an approved method statement.*
- b) Be completed by a suitably qualified Lighting Engineer/ Consultant.*
- c) Demonstrate that the illumination level: "zero Lux" at the boundary of the residential properties to the North of the golf driving range has been achieved.*
- d) In the event that the specified Lux level has not been achieved, a further scheme of artificial light (illumination) attenuation works capable of achieving the specified Zero Lux level shall be submitted to and approved in writing by the Local Planning Authority.*
- e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.*

Reason: In the interests of amenity having regard to the location of the site in accordance with policy DC3 of the Macclesfield Borough Local Plan 2004.'

The condition as proposed by the applicants is as follows:

'Before the use of the lighting is commenced, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and approved in writing by the Local Planning Authority. Such validation test shall:

- a) Be completed in accordance with an approved method statement.*
- b) Be completed by a suitably qualified Lighting Engineer/ Consultant.*
- c) Demonstrate that the illumination level: +/- 1 additional Lux resulting from the development hereby permitted at the boundary of the residential properties to the North of the golf driving range has been achieved.*
- d) In the event that the specified Lux level has not been achieved, a further scheme of artificial light (illumination) attenuation works capable of achieving the specified +/- 1 additional Lux resulting from the development hereby permitted level shall be submitted to and approved in writing by the Local Planning Authority.*
- e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.'*

Amenity

Policies DC3, DC33 and DC64 indicate that development should not significantly injure amenities of adjoining or nearby residential property or sensitive uses.

One of the main amenity impacts identified were light glare and light trespass.

The submitted Lighting Report and supplementary Lighting Report were carried out in accordance with Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting GN01: 2011. The Floodlighting SPG provides guidance on the interpretation of policies DC33 and DC64. Both of these policies look at the issue of lighting. Sky glare and light trespassing can result in artificial light nuisance which is actionable under the Environmental Protection Act 1990.

Whilst, there is no set level at which artificial light from premises becomes a statutory nuisance, the document referred to above provides guidance on acceptable levels.

The condition imposed was suggested by Environmental Health following negotiations and amendments agreed between the applicant and Environmental Health. Environmental Health withdrew their original objection to the application following the submission of additional information and amendments to the scheme which were as follows:

- The number of "berm" ground mounted light units reduced to 7 from the original 8 proposed (furthest line, towards Wrenshot Lane, of lights reduced from 3 to 2 units).
- The 2 furthest units will have reduced output of 250 watts rather than 400 watts.
- 6 of the 7 ground mounted units will have light spillage blocks to prevent light spillage emulating towards neighbouring land
- The 6 floodlights would be angled with overhanging caps
- 2m high screen to the boundary with Park Cottage.

The Report concludes that lighting conditions would be within +/- 1 Lux of the current lighting conditions for neighbours and on that basis, Environmental Health considered that as residents would be using their gardens more readily in summer and subject to appropriate controls, this would limit the impact of light pollution from the driving range to neighbours. Notwithstanding this, Environmental Health recommended a condition in respect of the submission of an illumination validation test (to ensure zero lux is achieved at nearby residential properties).

The applicant is applying to vary the condition because the condition as currently worded might be interpreted in a way that is unnecessarily onerous given that existing lighting levels are likely to be in excess of zero lux. The objectors also agree that existing lighting levels are likely to be in excess of zero lux. Environmental Health has confirmed that, if interpreted in that way, the wording in the condition would be overly restrictive and that the intention was to ensure that no additional lux produced at the site boundaries with The Damsons and Park Cottage. The proposed condition as recommended in this report would achieve this objective.

The objectors and Parish Council have suggested an alternative wording that requires the information be independently verified and that it be retained at zero lux as they consider anything over this would be unacceptable.

Given that any information submitted would be ratified by Environmental Health it is not considered necessary to have this independently verified as the Council is satisfied that it has the expertise internally to be able to analyse any information submitted in conjunction with the condition.

The applicants originally suggested that the condition allow for +/- 1 Lux when measured against existing conditions. It allowed, this would mean that artificial light levels could increase by up to 1 Lux above existing. However, Environmental Health consider that an increase of 1 Lux above existing should not be accepted with the information available. The proposed wording within this report suggested by officers differs from the various suggestions submitted. This is to ensure that the condition meets the requirements of the applicant, Environmental Health, protects the amenities of neighbours and meets the tests within Circular 11/95. Both the applicant and Environmental Health have informally commented that the wording suggested by officers would meet their requirements.

The suggested wording by officers to be imposed on the planning permission is:

Prior to the installation of any lighting associated with the development hereby permitted, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and approved in writing by the Local Planning Authority.

Such validation test shall:

- a) Be completed in accordance with an approved method statement.
- b) Be completed by a suitably qualified Lighting Engineer/ Consultant.
- c) Demonstrate that no additional artificial light overspill associated with the development hereby permitted occurs at the boundary of the residential properties to the North of the golf driving range.
- d) In the event of light overspill from the golf driving range, a further scheme of artificial light (illumination) attenuation works capable of achieving "no additional artificial light overspill associated with the development hereby permitted occurs at the boundary of the residential properties to the North of the golf driving range" shall be submitted to and approved in writing by the Local Planning Authority.
- e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use of the lighting is commenced and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of amenity having regard to the location of the site in accordance with policy DC3 of the Macclesfield Borough Local Plan 2004.

As noted above, the relevant policies within the Local Plan suggest that permission can only be withheld where an impact on amenity is significantly adverse. Given the existing

site conditions and the mitigation proposed within the condition, any impact on neighbouring amenity would not be significantly adverse. On that basis and in accordance with para 14 of The Framework the proposals do not raise any amenity issues.

Planning permission should only be refused if the harm cannot be addressed by conditions. In this case the revised condition properly safeguards living conditions and visual amenity.

Green Belt Issues

The impact of the proposed lighting on the landscape and wider Green Belt was a material consideration during the last application not just in terms of the light pollution but also the light installations and associated mitigation measures.

Under the last application, the Berm light system is designed to minimise sky glow and the provision of caps and angling would further mitigate the impact. The Berm lighting is set into the ground which reduces its visual impact and the floodlighting was to be attached to the proposed building. The mitigation proposed included a series of structures under 2m in height and therefore do not require planning permission.

These mitigation measures are not considered to have any harmful impact on the openness of the Green Belt. Any additional attenuation measures required by the condition would be of a similar nature and would not materially affect openness or visual amenity of the Green Belt.

Notwithstanding this, to control concerns regarding the visual impact of associated mitigation which would only be required as a direct consequence of the development requiring planning permission, it was considered appropriate to condition full details to be submitted.

The contents of the objectors letter is duly noted and the condition relating to the submission of details would be imposed accordingly.

Other Matters

Applicants Proposed Amendment

After this application was submitted, the applicants informally requested that the condition be varied to allow 1 Lux at 3m of the building but have not explained the justification for this. Environmental Health has expressed concerns regarding the enforceability of this. On that basis, this alternation is not considered reasonable. In any event, the applicants have since informally agreed that the revised condition as suggested by officers would meet their requirements.

Stray Balls

Since granted planning permission, it has been noted that the Stray ball report submitted by the applicant included an aerial photograph with an overlay of the position of the driving range which has since been acknowledged to be slightly inaccurate when compared to the red edge site plan. The true position of the driving range is actually slightly further away from 'The Damsons' and 'Park Cottage' but is angled slightly more towards 'Park Cottage'. Planning officers and Environmental Health consider this has made no material difference in the assessment and conclusion made and that adjoining properties are adequately safeguarded.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Planning permission has already been granted and the development was considered appropriate development in the Green Belt. The condition as amended would continue to ensure that the development would not have a significant adverse impact upon neighbouring amenity or the landscape character of the site. In addition, this variation does not raise any new issues in respect of highway safety, nature conservation or in any other way. The proposals therefore accord with policies NE11 Nature Conservation, NE17 Nature Conservation in Major Developments, GC1 Green Belt – New Buildings, DC1 Design – New Build, DC3 Amenity, DC6 Circulation and Access, DC8 Landscaping Scheme, DC9 Tree Protection, DC13 Noise, DC33 Outdoor Commercial Recreation and DC64 Floodlighting of the Macclesfield Borough Local Plan 2004. In so doing, The Framework indicates at para 14 that under such circumstances, permission should be granted.

The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Application for Variation of Condition

RECOMMENDATION: Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A06EX - Materials as application
3. A01AP - Development in accord with approved plans

4. A01LS - Landscaping - submission of details
5. A04LS - Landscaping (implementation)
6. A02TR - Tree protection
7. A22GR - Protection from noise during construction (hours of construction)
8. A23GR - Pile Driving
9. Floor Floating Details
10. Illumination Validation Test –

Prior to the installation of any lighting associated with the development hereby permitted, an Artificial Light/ Illumination Validation Test shall be completed and the results submitted to and approved in writing by the Local Planning Authority.

Such validation test shall:

- a) Be completed in accordance with an approved method statement.
- b) Be completed by a suitably qualified Lighting Engineer/ Consultant.
- c) Demonstrate that no additional artificial light overspill associated with the development hereby permitted occurs at the boundary of the residential properties to the North of the golf driving range.
- d) In the event of light overspill from the golf driving range, a further scheme of artificial light (illumination) attenuation works capable of achieving “no additional artificial light overspill associated with the development hereby permitted occurs at the boundary of the residential properties to the North of the golf driving range” shall be submitted to and approved in writing by the Local Planning Authority.
- e) The Validation Test scheme of works shall be installed as approved in writing by the Local Planning Authority before the use of the lighting is commenced and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.

11. A13GR - Business hours (including Sundays)
12. Details of Screens and Blockages
13. Details of Berm Mounds
14. Removal of Floodlights on Existing Clubhouse
15. A12MC - Hours of illumination and no additional lighting

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