



Appeal Decision

Inquiry held on the 11 - 13 September and 21 November 2012

Site visit made on 21 November 2012

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 11 December 2012

Appeal Ref: APP/G5180/A/12/2174431

Cherry Lodge Golf Club, Jail Lane, Biggin Hill, Westerham, Kent, TN16 3AX

- 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 Cherry Lodge Golf Club Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref. DC/11/02499/FULL1, dated 25 July 2011, was refused by notice dated 16 November 2011.
 - The development proposed is the improvement of the golf club course including deposit of inert material to remodel the 2nd, 3rd, 4th, 5th, 7th, 8th, 10th, 11th, 13th and 14th holes and provide a multi-shot driving range (on existing practice ground outfield). Formulation of a chipping academy and putting green; erection of a replacement single storey driving range building; laying out of hard surface on existing informal car parking area to provide 93 spaces; drainage and landscaping works; and alteration of vehicular access to Main Road and construction of temporary haul roads and compound for import of soil, including wheel washing facility, site office and related buildings.
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Preliminary matters

1. In addition to the plans showing the position and alignment of the 'haul road' submitted with the planning application, the appellant's team had drawn up an alternative alignment of part of the route which was tabled at the Inquiry. The position of the proposed access with Main Road remained the same, together with the first, western, 'half' of the road, but the eastern 'half' was shown to be re-sited about 100m away and parallel to footpath /bridleway 277, compared to the 20m originally proposed, and for about 600m before being sited on the original alignment where the road enters the golf club land itself. I have considered the revised plan under the principles established by the Courts in *Wheatcroft*¹ but I consider that this proposal is too far removed from the original scheme and has not been subject to proper consultation with the local community or specialist groups. I will therefore not have regard to this alternative scheme.
2. During the inquiry it became clear that there was an omission of 'hole 6' from the description of the development where the inert material was intended to be deposited. On behalf of the appellant's team Mr Downs explained that this was an oversight. The plans under consideration include work around the 6th hole. I am satisfied that I can include the work to this hole in the description of the development as it does not affect the overall nature and scope of the proposal.

¹ *Wheatcroft v SSE* [1982] JPL, 37.

3. A petition signed by 207 people 'objecting to the importing of 250,000 cubic metres of material of landfill via 140 lorry movements per day for a period of 18 months' was submitted by the Cherry Lodge Landfill Action Group (CLLAG) at the start of the Inquiry.

Decision

4. The appeal is allowed and planning permission is granted for the improvement of the golf club course including deposit of inert material to remodel the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 10th, 11th, 13th and 14th holes and provide a multi-shot driving range (on existing practice ground outfield); formulation of a chipping academy and putting green; erection of a replacement single storey driving range building; laying out of hard surface on existing informal car parking area to provide 93 spaces; drainage and landscaping work; and alteration of vehicular access to Main Road and construction of temporary haul roads and compound for import of soil, including wheel washing facility, site office and related buildings, at Cherry Lodge Golf Club, in accordance with the terms of the application, Ref. DC/11/02499/FULL1, dated 25 July 2011, subject to the conditions set out in the attached Schedule of Conditions.

Main Issues

5. The main issues are:
 - Whether any of the development proposed is 'inappropriate development' as defined in the national Framework, and the effect of the golf course development and the haul road on the openness and amenity of the Green Belt;
 - The effect of the increase in volume of large vehicles, travelling to and from the site during the construction period, on road safety and the free flow of traffic in the area and on the living conditions of nearby residents.
 - Whether the proposal would result in the loss of an important hedgerow and if so the effect on the character of the area and the Green Belt;
 - The effect of the formation of the haul road and the remodelling of the golf course and associated operational development on the recreational amenity of footpaths, bridleways and byways and on their users.

Reasons

Background

6. Cherry Lodge Golf Club is a private, not for profit club, owned by its members. It occupies about 28 hectares of open countryside, which forms part of the Metropolitan Green Belt, to the east of Biggin Hill and south of Bromley. The 18 hole course has a club house which is accessed off Jail Lane. The site is located in a gently undulating landscape which is characterised by open fields, many enclosed by hedges, and blocks of woodland. There are a number of bridleways and footpaths, (including permissive footpaths) in the vicinity and around the edge of the site and a public footpath bisects the course and crosses a number of the holes. The site and the area around it do not have any special landscape designation.
7. It is proposed to improve the course by better defining some of the holes with new contouring, remodelling and landscaping and adding new practice facilities

as well as a permanent car park. This will require the deposit of inert material to change the landform and on which new landscaping can take place. Because of the narrowness of Jail Lane, it is proposed to alter an existing field access to Main Road (the local name for this part of the A233) and install a haul road over adjacent agricultural land to accommodate the lorries carrying the imported material. A temporary construction compound to oversee the supply of imported material would be located at the end of the haul road. The appellant's team envisage that the deposit operation would last between 18 and 24 months, depending on the availability of inert material which would be likely to come from the construction industry.

8. At the inquiry, evidence was put forward as to why the improvements, requiring a significant amount of imported material, were needed. It was said on behalf of the club that its membership had declined by about a half in recent years and that this decline was caused, at least in part, by the course and its facilities, being 'tired'. Much of the course was flat and plain, with little differentiation between the holes. Conifer trees which had been planted when the course was designed, had now matured and were imposing in the landscape and dominated the character of many holes. Further, a lack of practice facilities and a driving range was not conducive to people who wanted to 'pay and play' which was becoming more usual in golf. The club's golf experts' assessment was that if the club did not make these improvements soon, its future viability would be at risk.

Effect on the Green Belt

9. The golf course lies in the Metropolitan Green Belt (GB). The National Planning Policy Framework (the Framework) indicates that 'inappropriate development' is by definition, harmful to the GB and should not be approved except in very special circumstances. The Framework goes on to stipulate that the erection of buildings in the GB is normally inappropriate development, unless such a building is for stated exceptions, for example, the provision of outdoor sport and recreation facilities, provided that it preserves the openness of the GB. Further, a similar test of the effect on openness is to be applied to other forms of development such as engineering operations. Although saved Policy G1 of the Council's Unitary Development Plan (UDP) predates the Framework, it is generally consistent with this national advice and contains a similar presumption against inappropriate development.
10. There are three aspects of the proposal that have to be considered in relation to the effect on the GB: the engineering operation of the deposit of inert material to remodel the course and the practice area together with the hard surfacing of the car park; the erection of the golf driving range building; and the construction of the haul road and temporary compound for the construction phase. I will consider these in turn.
11. At my site visit, I noted the natural topography of the golf course and the changes to the landscape that have already been made since the course was established in the 1960s. For example, ground moulding to form tees and greens and occasional mounds in between, together with the large number of conifer trees which line many of the holes. I also considered the nature of the remodelling proposed from beside a number of the holes and fairways, from public footpath 285B which crosses the course and from bridleway 277.

12. I generally agree with the conclusions of the appellant's landscape witness that the many conifers have now grown to such an extent that they are stark, alien and imposing features in the landscape. Their only benefit being a functional one to provide a physical and visual barrier to the delineation of the holes. The evidence given on behalf of the appellant of the need to improve the state and 'playability' of the course was not challenged by other expert evidence.
13. In my judgement, the general form of the remodelling with deposited material as now proposed (generally 2-3m in height but up to 4m in height in isolated areas) would complement the ground features of the course, and would not result in an unusual or alien topography or have a more 'artificial' appearance. Further, the felling and replacement of the many tall dark green conifers, and their replacement by native species in new landscaping and undulating grassland, would be an improvement to the local landscape and make it more open. Such work would be of benefit to both the users of the golf course and to the wider public realm. The remodelling would also aid the accommodation of footpath 275C across the site. At my site visit, I paid special attention to the remodelling proposed adjacent to Bridleway 277 alongside hole 13. From this public viewpoint, I consider that the height of the remodelling and its landscaping would help provide a physical barrier and help to separate walkers and riders from stray golf shots without resulting in a visually stark enclosure of this public space. Overall, I consider that the scheme for the deposit of material would result in an improvement in the openness of this part of the GB and this operation would not be 'inappropriate development'.
14. In relation to the proposed golf driving range building, this would be a single storey building with an open front and other walls clad in timber and would accommodate 12 driving 'pods'. The building would replace a very small single unit structure and would also be seen at a distance from public footpath 275C. Although the building is shown to have a length of about 50m, it has to be seen in the context of the whole 28 ha. of golf course. I am satisfied that its scale, form and location, and relationship with the remainder of the extensive open golf course, mean that it is appropriate as an essential facility for outdoor sport and recreation and as such does not constitute 'inappropriate development' in the context of the Framework or UDP policy G1.
15. Finally, there is the development associated with the construction and use of the haul road into the site and the constructor's compound proposed to be just within the golf course complex. These aspects of development would be located for the temporary period of the construction work. The Council suggests that even though the haul road is recognised to be only for a temporary period, the work in constructing the road and its use still results in inappropriate development and would be a scar on the landscape. However, while the presence of the road, and its frequent use by lorries going to and from the site, will have an effect on the general amenity of the GB, I find that it will not have adverse effect on openness. The haul road would be a flat surface at ground level enclosed by temporary fencing but this latter barrier would be low enough not to have an effect on openness. In terms of the compound, again this will hardly be noticeable from the public realm away from bridleway 277. Although the effect on the amenity and local landscape of this part of the GB would be harmful, I am satisfied that this visual impact would be both temporary and limited. Further, in the long term, this harm can reasonably be addressed by conditions requiring the removal of the temporary

buildings and structures in the compound and the haul road and the return of the land to its previous state.

16. I conclude on this issue, that the engineering works proposed with the importation of material and the remodelling of the landscape of the golf course, the erection of the golf driving range building and the temporary installation of the haul road and constructors' compound, do not amount to inappropriate development in the GB. Further, the remodelling would be likely to make the golf course be and appear more open, while the new planting proposed would enhance rather than detract from the open character of the area. The formation of the haul road and compound would have an adverse effect on the amenity of this part of the GB, and substantial weight should be given to this harm in the balancing exercise. Nevertheless, this harm to amenity will be for a specific and temporary period and I consider that this harm is addressed by the conditions put forward by the appellant and the Council. I therefore conclude on this issue, that the development proposed accords with UDP policies G1 and L1, Policy 7.16 of the London Plan, and the guidance set out in the more recent national Framework.

Effect of construction traffic

17. This issue is concerned with the effect of construction traffic arising from the development on road safety and the free flow traffic and the effect of such traffic on the amenity of the area including that of the occupiers of the houses in Main Road around where the haul road would enter the highway, and on the A233, particularly where it serves the community of Biggin Hill.
18. The appellant's team say that the remodelling of the golf course will require the deposit of about 237,000 m³ of inert materials, such as soil, clay and hardcore, which would be brought onto the site by lorries. Because of the limitations of Jail Lane, where the existing access to the golf club is located, it is proposed to construct a haul road from the A233 to the golf course to accommodate the lorries transporting the imported material. Further, the appellant's team propose to limit the time of entry of vehicles to the 'inter-peak' period of 0930 – 1630 and for the lorry movement to be on weekdays only. It is estimated that this would result in 70 lorry movements in and the same number coming out of the haul road onto the A233 each working day. On average this would amount to an additional 20 two way movements per hour. It is also estimated that the lorry traffic generated would be likely to be split 80/20% north/south. That is, about 80% of the lorry traffic would be likely to come from the London area to the north through Biggin Hill to the site, and return that same way; and only about 20% of the traffic would come from the south up Westerham Hill.
19. Dealing with the technical aspects of the proposed new junction of the haul road with the A233 first, the Council as highway authority, are satisfied that it would have adequate visibility spays and junction radii to accommodate the entrance and exit of lorries. Further, the entrance gates would include a barrier located well into the site, to ensure that any lorries arriving before the permitted opening time would be able to park up off the highway.
20. The movement of lorries would also result in turning movements into and across the A233 depending on the direction of travel. While the representative of the highway authority accepted that these turning movements in themselves would not be at odds with road safety or materially interrupt the flow of vehicles on the main road, there is public concern that the additional lorries

could lead to road safety problems. These are considered to be over and above the potential increase in accidents directly proportional to the increase in traffic. The Council says that the proposal could result in an increase in accidents, because of the frustration that road users would suffer being held up by lorries crawling up Westerham Hill; the proximity of the proposed haul road access to existing commercial and residential properties on the western side of Main Road; and the additional traffic going through the local centre of Biggin Hill where there were 'pinchpoints' on the A233.

21. The local people who spoke at the inquiry and the many written representations made, left me in no doubt about the strength of local feeling against the degree of lorry movement that the proposal would result in. The residents said that the predicted level of lorries per hour, would result in an increase of 16 lorries per hour along Main Road to the north of the haul road entrance. This equates to an additional lorry every 3-4 minutes. Further, it was unlikely that lorry movements would be evenly spaced throughout the day, and a concentration of lorry movements at any one time would result in congestion. The inevitable early start or later arrival would end up with lorry movements during the peak hour period and this would also add to congestion resulting in additional pollution from HGV vehicle exhausts. This would harm the amenity of their area.
22. Much evidence was presented at the inquiry about the projected increase in traffic levels, and this varied depending on the nature of the vehicles taken into account at the base line. The appellant's highways expert said that the lorry movements would increase the total flow of traffic on the A233 (north of the access) by about 2% during the inter-peak period and only 1% across the whole day, which is a minimal increase. For Heavy Duty Vehicles (HDV) this increase is higher at around 24% for the inter-peak periods and about 13% across the whole day. The proportion of total flow composed of HDVs would increase from 9% to 10-11% during the inter-peak and 8% to 9% across the whole day. In comparison, the evidence given by CLLAG members suggests that the increase in HGVs (i.e. 3 axle+ vehicles) would be 350%.
23. There is understandable widespread concern about the level and increase in HGV/HDV traffic that would arise locally, and this concern about impact and road safety is capable of being a material consideration even though it is not supported by the representative of the highway authority and that body did not raise objection to the application. Nevertheless, I have to apply an objective test on this issue where possible. The appellant's team highlight that the guidelines published by an independent body² state "at a basic level it should therefore be assumed that projected levels of traffic of less than 10% create no discernable environment impact". Further, relevant guidance in the more recent national Framework indicates (in paragraph 32) that "development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe".
24. In this case, I have to take into consideration that the A233 is an 'A' road and is defined in the Bromley UDP as a "London Distributer Road". In short, it is intended to carry main traffic flows and a wide range of vehicles but especially HGVs. It is the type of road that proposals resulting in more traffic would normally be directed to. At my site visit, I travelled the A233 from around

² The Institute for Environmental Assessment - Guidelines for the Environmental Assessment of Road Traffic (1993).

Westerham in the south to the junction with the A21 in the north on a number of occasions and at different times of the day. I noted the nature of the road, including where it serves residential areas and village centre/commercial districts, and the degree of on-street parking that took place in both designated bays and on an ad-hoc basis, and the pinchpoints that arose in the road. I also noted such pinchpoints caused by parking in the vicinity of the proposed entranceway to the haul road. Nevertheless, these appeared to me to be relatively normal highway situations for a road of this classification in an outer suburban area.

25. In terms of highway danger and the likelihood of more accidents being caused by the construction traffic, the balance of evidence presented at the inquiry suggested that the local accident record along the local stretch of the A233 was low and not unusual. Although there is much concern expressed about the effect of more lorries on the road, it has not been clearly demonstrated that the number of lorry movements as predicted would lead to a disproportionate increase in related accidents to road users, pedestrians or others.
26. I also have to take into consideration that the proposal has been designed to avoid or at least reduce the movement of lorries to and from the site at peak hours and at the weekend, and that the operation involving the deposit of material is said to be for a limited period and for a specific purpose.
27. Taking all of these aspects together, I am satisfied that the access proposed for the haul road with the A233 is of an acceptable highway standard and that it has not been demonstrated that the level of turning movements into and out of the access would disrupt the normal flow of traffic on the road to a significant level. It has also not been demonstrated on the balance of probabilities that the proposal would result in a danger to road safety. The additional level of HGV/HDV traffic using Main Road and though Biggin Hill would be discernable to local residents during the construction period, but I do not consider that such extra traffic on a recognised London distributor road would be so harmful to amenity as to justify the rejection of this scheme on this ground.
28. Overall, on this issue, I find that that the proposal would involve the creation of a new access onto a distributor road, where it has not been shown that there is an alternative, and that road safety is unlikely to be materially affected by the proposal, and so it accords with saved Policies T11 and T18 of the UDP. Further, on balance, I find that the cumulative additional traffic levels on the A233 distributor road overall would not be 'severe' and therefore the proposal meets the guidance in the national Framework.

Effect on hedgerow

29. This issue concerns the loss of a length of hedgerow along the frontage of Main Road to facilitate the creation of the access to the haul road, together with the suggestion of a proposed pedestrian/equestrian access to a (permissive) public footpath to the north.
30. About 40m of hedgerow would be required to be removed to form the haul road access. This would also require extensive sight lines either side, however because of the slight bend in Main Road at this point, most of these visibility splays can be achieved by the trimming rather than uprooting of the adjacent hedge. At my site visit, I considered the sight lines available from the proposed access point and I am satisfied that 'trimming' is an accurate

description of the work likely to be involved. I also noted that the existing hedge to the north of the entrance to the field and to Byway 283 had been reduced to a height of about 1m.

31. The appellant's team say the hedge is not an 'important hedgerow' as defined in the Hedgerow Regulations 1997 as it does not satisfy the requirements of diversity and archaeology. The Council submits that the hedgerow does qualify as being 'important' because of the degree of woody species present, its age and its presence adjacent to a bridleway or footpath. On the evidence provided, and as a matter of fact and degree on the circumstances of this case, I find that the hedge is an important hedge because of the species contained therein and its location, in part, adjacent to a byway, and I will proceed on this basis.
32. At my site visit, I considered the contribution that the hedge makes to the rural landscape and character of the area. Locally, hedges are an important feature on the edge of the countryside, which is Green Belt, and help provide a verdant edge to the built up area as well as being a positive visual and ecological feature in their own right. Nevertheless, the hedge in question is part of an extensive line of hedge, and I do not consider that the removal of a section of about 40m to allow for the new access, and the minor trimming of the neighbouring elements, would have a harmful effect on this rural character. The appellant proposes to reinstate the hedge as part of the restoration work following the completion of the development. The Council is concerned that the compaction of the soil with the access work will limited the re-establishment of the hedge, but I can see no technical justification to support this concern. Further, as the benefit of the hedge is its visual quality, there is no reason, in principle, why this cannot be replicated with new planting.
33. In terms of the suggestion to provide an additional pedestrian/equestrian access further north up Main Road to the permissive footpath, again I considered this at my site visit. This suggestion would seek to formalise the 'cut through' in the hedge that already exists. However, there is no footway on the eastern side of Main Road and the sight lines are restricted as the hedge grows out to the edge of the road. In order to have adequate visibility for people to cross the road safely extensive sight lines would be needed and this would affect an extensive length of hedge. However, it appears to me that this entrance to the public footpath is not a formal one, and the longstanding entrance to Byway 282 is relatively nearby. In these circumstances, I consider that the suggested entrance to the byway is not justified.
34. I conclude on this issue that while the hedgerow at the point of the proposed access to the haul road is an 'important hedgerow' the removal of a section of about 40m of hedge would not have a harmful effect on the remainder of the hedge or the character and appearance of the area. It is also likely that it can be re-instated after the development is complete. Its removal would therefore not be in conflict with saved policy NE9 of the UDP. Further, if planning permission is granted for the development this would provide an exception under the Hedgerow Regulations.

Effect on footpaths and public ways

35. This issue is concerned with the effect of the development particularly on users of the public rights of way within and around the site. As I have mentioned above, footpath 275C crosses the golf course and bridleway 277 runs near its

- southern boundary. Footpath/bridleway 275B would cross the haul road near its junction with Main Road which is also close to bridleway 283. Further, the haul road would cut across bridleway 277 as it enters the golf course.
36. The appellant's team surveyed the use of the public rights of way in July of this year and the results could be described as light use as only one equestrian user was seen during the survey period of 14 hours. Whereas, the evidence given on behalf of the British Horse Society at the inquiry suggested that the survey days were not representative and that the level of use is normally much higher. We encountered one rider twice at the accompanied site visit. Evidence was also given on the concentration of equestrian users in the locality who are said to rely on the local bridleway network around Strawberry Fields to exercise their horses.
37. Dealing first with footpath 275C which crosses the golf course, I do not consider that the alterations to the remodelling of the golf course will have much effect on the quality of the surroundings experienced by the footpath users. The character of the space will still be that of a golfing recreational area. Moreover, the physical changes proposed are more likely to make a better differentiation between the alignment of the individual holes and where users have to walk across the fairways.
38. In relation to the equestrian use of bridleways, there are only two positions where the haul road and a bridleway would cross; the first at the main junction with Main Road, and secondly, near the compound where the haul road turns into the golf course itself. In this latter location, the operators of the scheme to deposit material propose to retain a 'banksman' to oversee the 'junction' during the hours of operation. Therefore with the appropriate signage and supervision, I consider that the scheme makes reasonable provision to mitigate the direct effect on users of the public rights of way.
39. However the indirect effect on bridleway users is less straightforward. The haul road would be in the vicinity of a bridleway for much of its length. Given that some 140 lorry movements per day would use the haul road, this level of lorry movement would be likely to have an adverse effect on the ambiance and tranquillity of the riding experience. Further, as the representative of the British Horse Society suggested, the close proximity of the lorries to the riders, at about 20m for a significant part of length of the bridleway, may lead some riders to conclude that there was too great a risk to the horse being disturbed, particularly where younger riders are involved.
40. Nevertheless, this impact has to be balanced with the evidence that the use of the bridleway network is relatively low and that the movement of lorries is restricted to part of weekdays, not at weekends, and for a temporary period. Given these factors, the harm would be relatively limited, and with the mitigation details put forward, which can be required to be implemented by condition, I find that the harm is not sufficient to justify the refusal of the scheme on this ground.
41. I conclude on this issue that with the limitations and conditions put forward, the proposal would have a limited, but not significant impact, on the use of the local public rights of way.

Overall assessment

42. Drawing all of these aspects together, in considering the main issues, I have found that the work involved in the remodelling of the golf course with the deposit of imported material, will not have a harmful effect on the openness of the GB and the new landscaping proposed would improve it, and it is therefore not inappropriate development. Similarly, the golf driving range building is an essential facility for outdoor sport and recreation and as such is also not inappropriate development. The construction of the haul road would also not be inappropriate development but its presence and use would affect and harm the amenity of the GB along with the construction compound. I applied significant weight to this harm but found that it would be both limited in extent and temporary and can be addressed by conditions.
43. I found that there is no technical highway objection to the temporary access proposed for the haul road and it has not been demonstrated that the increase in traffic would harm the free flow of traffic or result in a danger to highway safety. The cumulative effect on traffic levels caused by the likely extent of lorry movements delivering materials to the site and leaving it, would not be significant or severe. It would be discernable to the local community but I have found that as the A233 is a London distributor road, the effect on amenity for a temporary period would not be so great as to justify the refusal of the scheme.
44. I have also found that with the limitations and conditions put forward the proposal would have a limited and not significant impact on the use of the public rights of way.
45. Given these conclusions on the other main issues, I am satisfied that the removal of a part of an 'important hedgerow' is justified as part of a planning permission.
46. On the basis of my assessment, I conclude that the proposal is in accordance with the relevant provisions of the development plan and national policy.
47. Some residents and local groups queried the motives behind the proposal and that it would be undertaken for commercial gain as well as to try and safeguard the future of the club. They felt that if the club was in financial difficulty and had to close, so be it, as the harm that would arise in the scheme outweighed the benefits. However, the golf club and course is a lawful development which is an appropriate use within the Green Belt and there is no planning policy which requires the site owners or development operator to prove the long term viability of their scheme.
48. As the development proposed accords with the development plan and involves the re-use of redundant materials in a positive way, it is sustainable development and would contribute to economic growth. The recently issued national policy in the Framework stresses that there is a presumption in favour of sustainable development and such development should be approved without delay.

Conditions

49. The appellant and the Council have suggested conditions if I were minded to allow the appeal. Dealing with these in turn: as well as the statutory time limit on the commencement of development, I agree that it is necessary to specify

the plans that form part of the approval and to stipulate that the development shall be carried out in accordance with them in the interests of clarity.

50. In relation to recommended condition 3, the main parties have not reached agreement on the wording to cover the nature of the materials that can be imported to the site for remodelling. In essence, the difference is that the Council would wish the definition to explicitly state that it does not include "putrescible" material. Using the OED definition, this means material that rots. However, it would prevent the deposit of otherwise inert material like wood chippings, or the use of organic material to enhance the soil or as mulch for the new landscaping. This would be unreasonable in the context of good landscaping practice. I will therefore use the form of condition drafted by the appellant's team. Although this requires the previous grant of a 'bespoke permit' by the Environment Agency before development can start, this is reasonable and necessary given the concerns expressed by local people about the nature of the material that can brought to the site. But I will add the word 'inert' as a prefix to the type of material as that is what was applied for in the description of the development.
51. In terms of working hours, it is reasonable and necessary that the time in which the delivery of material can be received at the site is limited so as to restrict the activity to hours which will have less effect on the amenity of properties close to the entrance to the haul road and for the additional traffic movement to be generally outside peak hours.
52. Although the approved plans have appropriate details of the temporary haul road access, further working details, and for arrangements such as signage, are necessary, through the drawing up of a Construction Transport Management Plan, and these details shall be agreed with the Council and implemented as part of the development. I shall also make it clear that these measures must be retained for so long as the deposit of material continues on the site. It is also necessary to impose a condition to regulate the number of vehicle movements arising out of the deposit of material and it is reasonable to ensure that an average is taken over a week to allow for fluctuations in the supply of material.
53. Similar to condition no. 5, although the plans to be approved contain the necessary information on the form of the remodelling, more detailed aspects relating to construction matters need to be submitted and agreed with the Council through a Construction Method Statement. This shall include aspects of phasing, the provision and removal of temporary structures and the reinstatement of the land, drainage and drainage disposal, and measures to avoid pollution. I shall also add that the details shall include measures to include the protection of the gas pipeline across the site the presence of which was brought to my attention by a local resident. Again, I shall also make it clear within the condition that the agreed measures have to be retained for so long as the development is being carried out.
54. In the interests of the landscape, it is also necessary to impose a condition to require the submission and implementation of a scheme of landscaping and that this is carried out in a phased manner. As the improvement of the landscape is central to the appellant's case, it is reasonable and necessary that the landscaping scheme is overseen by an arboricultural expert to ensure compliance with the approved plans.

55. Finally in terms of the conditions recommended, it is reasonable and necessary to ensure that the proposed improvements to biodiversity are undertaken through a Biodiversity Management and Mitigation Plan and that this is submitted to and agreed by the Council and implemented in full thereafter. Although consideration of the proposal has not highlighted any interests of archaeological importance, there is sufficient justification to require a programme of archaeological works to be undertaken in conjunction with the development.
56. At the inquiry there was also a discussion and a general request from local people as to whether the period of the permission could be limited to ensure that the remodelling operation and the deposit of material was completed by a specific date. However, given that there is no onus on the appellant to carry out the development, only that if it is to be commenced, it must start within 3 years, and that progress may be dependent on the availability of suitable materials to be deposited, I have concluded that it would not be reasonable to impose a condition with a specific date for the completion of the work.

Overall Conclusion

57. For the reasons given above, and having regard to all other aspects raised at the inquiry and raised in written representations, I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

Time Limits

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Nature of development

- 2) The development hereby permitted shall be carried out in accordance with the approved plans:

- 100.01 Rev C – Existing Site Plan
- 100.02 Rev C – Proposed Grading Plan
- 100.03 Rev C – Proposed Layout Plan
- 100.04 Rev C – Proposed Phasing Plan
- 100.05 Rev C – Golfer Routing Plan
- 100.06 Rev C – Proposed Short Game Plan
- 100.07 Rev C – Proposed 14th Hole Safety Plan
- 100.08 Rev C – Proposed Planting Plan
- 100.09 Rev C – Proposed Woodland Detail Plan
- 100.10 Rev C – Site Clearance Plan
- 100.11 Rev C – Proposed Drainage Plan
- 100.12 Rev C – Proposed Cross Sections
- 100.13 Rev C – Works Plan
- 100.14 Rev C – Proposed Range Shelter
- 100.15 Rev C – Ecological Gains Plan
- 100.16 Rev C – Existing Rights of Way
- 100.17 Rev C – Proposed Rights of Way Mitigation Plan
- 100.18 Rev C – Proposed Cross Sections
- 100.19 Rev C – Proposed Cross Sections 2
- 100.20 Rev C – Proposed Cross Sections 3
- 100.21 Rev C – Proposed Parking Arrangements Plan
- 100.23 Rev C – Proposed ROW Access
- 100.24 Rev C – Crossing Point of BW 277 at Site Access
- 02 – Proposed Plans and Elevations
- Proposed ROW Mitigation Strategy
- F990-006 – Temporary Haul Road Access Plan

- 3) No development shall commence until the developer has obtained a Bespoke Permit granted by the Environment Agency pursuant to the Environmental Permitting Regulations (England and Wales) 2010. The material imported onto the site for landscape remodelling shall only comprise inert material as permitted by this Bespoke Permit.

Working hours

- 4) No deliveries of inert materials shall be taken at the site on any Saturday or Sunday, nor before 09.30 or after 16.30 Monday to Friday.

Transport

- 5) Prior to the commencement of development, a Construction Transport Management Plan ("CTMP") shall be submitted to and approved in writing

by the Local Planning Authority. The Construction Transport Management Plan shall include measures to deal with:

- a) signage including that for the temporary route of FP 275C during the construction period;
- b) site access including the proposed haul road junction with Main Road;
- c) visibility splays including measures to prevent any obstructions to visibility occurring above 1.0 m in height;
- d) any necessary temporary removal and replacement of highway infrastructure/street furniture;
- e) reinstatement of any signs, verges or other items displaced or damaged by construction traffic;
- f) banksman/escort details;
- g) routing of construction traffic.

The approved details of the Construction Transport Management Plan shall be implemented in full prior to the first use of the haul road and shall be retained thereafter for so long as the deposit of material continues.

- 6) There shall be no more than 140 large vehicle movements visiting or leaving the site per day (i.e. 70 in and 70 out) on a five day average (Monday to Friday) with a maximum of 150 large vehicle movements (i.e. 75 in and 75 out) on any one day (Monday to Friday). The average shall be taken over the five days (Monday to Friday) in any one week. The applicant shall maintain records of large vehicle daily movements to and from the site which shall be available for inspection by the Local Planning Authority upon written request.

Construction

- 7) Prior to the commencement of development a Construction Method Statement ("CMS") shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include measures to deal with:
 - a) phasing of construction works;
 - b) details of the temporary site works compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
 - c) details of construction of all hard surfaces and tracks to include details of surface water drainage;
 - d) details of the proposed storage of materials and disposal of surplus materials;
 - e) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
 - f) temporary and permanent junctions to and crossings of the public highway and all other Public Rights of Way;
 - g) dust management;
 - h) pollution control including protection of the water environment, bunding of fuel storage areas and/or use of oil/petrol interceptors, surface water drainage in accordance with the principles set out in the Surface Water Drainage Assessment dated August 2011, sewage disposal and discharge of foul drainage;

- i) details of emergency procedures and pollution response plans;
- j) temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting
- k) siting and details of wheel washing;
- l) cleaning of site entrances, site tracks and adjacent public highways;
- m) details and a timetable for post construction restoration/reinstatement of the temporary access, haul roads and site compound;
- n) protection of trees during the construction period and including but not limited to prevention of bonfires within 6 m of the furthest extent of the spread of the canopy of any tree or tree group shown to be retained on the approved drawings;
- o) fencing and perimeter treatments;
- p) safety measures for users of the golf course;
- q) protection of the gas pipe line which crosses the land.

The approved details of the Construction Method Statement shall be implemented in full prior to the deposit of any material on the land and shall be retained thereafter for so long as the operation to deposit material takes place on the land. The land comprising the access to the haul road, the haul road and the site compound shall be restored to its previous condition at the completion of the deposit operation in accordance with the provisions of the CMS.

Landscaping

- 8) Prior to commencement of development, details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting season following the first use of the driving range building or the substantial completion of the remodelling development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 9) Prior to commencement of development, the applicant shall, at his own expense, instruct an arboricultural consultant subject to written approval by the Council. The consultant will liaise with the developer and/or his architect or engineer to approve details of construction methods, oversee the works and report to the Council throughout the period of the works in so far as the works may affect trees within the site. All persons employed or engaged on the project shall immediately comply with any reasonable instruction, advice or request given or made by the arboricultural consultant in respect of works. This shall include an instruction to cease work if the arboricultural consultant considers that works have deviated from the agreed working methods and in these circumstances works shall not recommence until or unless written authority has been given by the Council or the arboricultural consultant that such works may recommence.

Biodiversity

- 10) Prior to commencement of development, a Biodiversity Management and Mitigation Plan shall be submitted in writing to and approved by the Local Planning Authority and the approved plan shall be implemented in full thereafter in accordance with the timescale set out in the plan. The requirements of the plan shall be retained thereafter.

Archaeology

- 11) Prior to commencement of development, a programme of archaeological works including details of a suitably qualified investigating body shall be submitted to and approved in writing by the Local Planning Authority and implemented in full thereafter in accordance with the requirements of the plan.

Documents submitted at the Inquiry

- 1 Opening submissions on behalf of the appellant – Mr Hardy.
- 2 Petition dated 17 July 2012 objecting to the landfill, pages 1-14.
- 3 Extended phase 1 Habitat Survey (M Jones) tabled by Mr Downes.
- 4 Statement submitted by Mr J Edwards.
- 5 Copy of Statement read by Ms S Foister.
- 6 Letter submitted by Mr S Booth on behalf of Mitchells and Butlers.
- 7 Copy of Statement read by Mrs Hamilton-Berré.
- 8 Copy of Statement read by Mr Lewis.
- 9 Copy of Statement read by Avril Sleeman.
- 10 Copy of Statement read by Mr Haslam.
- 11 Copy of Statement read by Mrs S Hossack.
- 12 Copy of Statement read by Mrs M Perkins.
- 13 Copy of Statement read by Mr M Giles
- 14 Copy of Statement read by Mr T Scott.
- 15 Copy of Statement read by Mr P R Cashmore
- 16 Copy of email submitted by Mr J Edwards – Chairman Westerham Society
- 17 Copy of letter submitted by Mr S Booth on behalf of Mitchells and Butler.
- 18 Draft Planning Conditions as mainly agreed by the main parties – Nov. 12.
- 19 Closing Submissions on behalf of the Council – Mr Darby
- 20 Closing Submissions on behalf of the appellants – Mr Hardy