

**HERTFORDSHIRE COUNTY COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

**THURSDAY 26 MAY 2016 AT 10.00 AM**

HERTSMERE BOROUGH

Agenda No.

**3**

**APPLICATION FOR THE VARIATION OF CONDITION 3 OF PLANNING PERMISSION 0/2529-10 TO PERMIT COMPLETION OF THE ENTIRETY OF FORMER DEFINED PHASE 2, CONSEQUENT UPON ALREADY CERTIFIED COMPLETION OF FORMER DEFINED PHASE 1, INCLUDING THE RE-GRADING OF MATERIALS ON SITE AND IMPORTATION OF SUPPLEMENTARY MATERIALS, AT DYRHAM PARK GOLF AND COUNTRY CLUB, GALLEY LANE, BARNET, EN5 4RA**

Report of the Chief Executive and Director of Environment

Contact: Rob Egan Tel: 01992 556224

Local Member: Morris Bright

**1. Purpose of Report**

1.1 To consider planning application reference 0/0462-16 for the variation of Condition 3 of planning permission 0/2529-10 to permit completion of the entirety of former defined Phase 2, consequent upon already certified completion of former defined Phase 1, including the re-grading of materials on site and importation of supplementary materials, at Dyrham Park Golf and Country Club, Galley Lane, Barnet.

**2 Summary**

2.1 This planning application seeks to vary Condition 3 of planning permission 0/2529-10 in order to allow a re-contouring of the land, where it is intended to construct a nine-hole academy golf course, in variance to the contours authorised by the original planning permission.

2.2 The proposed development seeks to retain waste materials presently on site and to import a further 75,230 cubic metres of waste materials in order to facilitate the changes.

2.3 The purpose of the development is to allow the new course to fully complement the existing 18-hole golf course at Dyrham Park, thus attracting new members, visitors and guests, thus ensuring that the facility is financially viable. Surplus money from the carrying out of the development (through tipping fees) is also required to be spent on the listed building at Dyrham Park, in order to meet the applicant's obligations under the lease it holds from the county council.

- 2.4 It is considered that the large scale of the development is inappropriate within the Green Belt, having an adverse impact on openness. Furthermore, the applicant has failed to demonstrate that there are very special circumstances that outweigh the harm to openness.
- 2.5 The proposed development has an adverse impact on the local landscape, especially that of the historic parkland that it is set within. It is of a scale and bulk that is completely out of keeping with its surroundings. In addition, it adversely impacts upon the local amenity of adjacent residential properties.
- 2.6 The applicant has failed to justify the need for the re-contouring of the land. Accordingly, it is recommended that planning permission be refused.

### **3. Description of the site and proposed development**

- 3.1 Dyrham Park Country Club covers an area of some 200 acres of parkland estate. The land is owned by Hertfordshire County Council. The applicant is Dyrham Park Country Club, a long term leaseholder of the land. The club is located about 2 kilometres north east of Borehamwood, about 3 kilometres south west of Potters Bar and about 3 kilometres west of Barnet. The A1 is located directly to the west of the club with an on/off slip road on the southbound carriageway of the A1 very close to the entrance to the golf club. Junction 23 of the M25 motorway, where it meets the A1(M) is located approximately 1.5 kilometres to the north. The club is located within the Green Belt and is locally registered parkland.
- 3.2 The application site comprises land to the south of the club house as well as the driving range to the east of the house. The land to the south is historic parkland consisting of grassland with a high number of mature trees and a number of existing ponds.
- 3.3 Land to the north and east of the club house is an eighteen-hole golf course and driving range. This golf course and driving range are also designated as a County Wildlife Site. The club is accessed off Galley Lane via a driveway. A public right of way (South Mimms footpath 62) runs from west to east along the southern boundary of the country club, adjacent to the proposed academy course. The footpath is not located within the planning application boundary.
- 3.4 The nearest residential properties are Brook House (approximately 15 metres from the southern site boundary), Little Dyrham (about 60 metres from the southern site boundary) and Valentine's Farm and Valentine's farm house (positioned approximately 50 metres from the western site boundary).

- 3.5 A temporary access into the application site has been constructed off Galley Lane with an internal haul road leading into the site. The first section of this is concreted and wheel washing facilities have been installed.

#### Planning and enforcement history

- 3.6 Planning permission reference 0/1394-06 was granted by the county council on 26 March 2007 for a landscaping bund.
- 3.7 Planning permission reference 0/2529-10 was granted by the county council on 8 July 2011 for the importation of clean inert soils for the creation of an additional nine-hole golf course and improvements to an existing golf driving range. It is this permission that the present variation of condition application relates to.
- 3.8 An application for a proposed variation of Condition 7 of planning permission 0/2529-10 was submitted in November 2012, reference 0/2444-12. This sought to increase the hourly vehicle movements within presently agreed hours and the approval of an enhanced Traffic Management Scheme along the A1(M) and the installation of agreed verge protection. The application was withdrawn by the applicant in February 2013.
- 3.9 The county council obtained evidence that there was a failure to comply with Condition 7 of planning permission reference 0/2529-10. Excessive numbers of HGVs were observed entering the site, far greater than the 100 daily movements (50 in, 50 out) allowed under the planning permission. The county council therefore served a Breach of Condition Notice on both Dyrham Park Country Club Ltd and Knowl Hill Ltd (the developers of the golf course) on 26 March 2013.
- 3.10 A subsequent application to vary Condition 7 of planning permission 0/2529-10 was made in May 2013, reference 0/1225-10. This sought to remove the hourly limit of deliveries and departures at the site. The application was withdrawn by the applicant in July 2013.

#### **4. Consultations**

##### 4.1 Hertsmere Borough Council – Planning

Raises no objection – Condition 3 was not recommended by Hertsmere Borough Council, and therefore no comments are made.

##### 4.2 Hertsmere Borough Council – Environmental Health

We have reviewed the documentation relating to the application and have the following comments to make:

- a) Under the existing planning permission, Hertsmere Borough Council Environmental Health department, together with the Environment Agency carried out joint inspections of the development site during the importation of material. These inspections were to ensure compliance with their Environmental Permit. During these inspections concerns were raised with the contractor, being able to provide documentation upon request to demonstrate how much material had already been imported to date. The contractor was unable to provide this at the time of our inspection and therefore more material may already be on the site, over and above what has been approved in the existing planning permission. We would therefore request that the applicant provides, as part of this planning application, documentation to detail how much material has already been imported onto the site in accordance with their current planning permission. This figure should be cross referenced with the Environment Agency records to provide further verification.
- b) The planning permission has failed to provide justification for the further 75,230 cubic metres of material to permit completion of phase 2. The original planning application was to import 250,000 cubic metres of material in two stages over the 2 years period back in February 2011 and now the applicant is requesting another 75,230 cubic metres over a 6-8 months period. Environmental Health would question why the applicant requires a further 75,230 cubic metres of material. The applicant has not provided as part of the planning application justification for the further 75,230 cubic metres of material and we would request that a report is provided to the planning authority to demonstrate the requirement.
- c) If the applicant requires the importation of another 75,230 cubic metres of material to complete the works, this will require a variation in the Environmental Permit issued by the Environment Agency. The current environmental permit only allows the importation of 500,000 tonnes. Therefore the applicant will need to increase the amount of material to be imported. This variation on the existing Environmental Permit is provided to the Planning Authority prior to increasing the importation. We would request that this is a condition on the planning permission to ensure that importation doesn't commence without the necessary permits.

In conclusion, Hertsmere Borough Council Environmental Health department would request **REFUSAL** of the variation of condition 3 as no documentation has been provided to demonstrate the current amount of imported material on site to date and no justification for a further 75,230 cubic metres of material has been provided.

#### 4.3 Environment Agency

We object to the proposed development as we do not believe it is appropriate for its location as it may pose an unacceptable risk to the environment.

## **Reasons**

The proposal submitted would have a fundamental change to the type of development at the site. The development could no longer be a waste recovery activity and would be regarded as a waste disposal activity (i.e. a Landfill). This is because the development is no longer minimising the quantity of waste required for the development. As such, this development would need to comply with the Landfill Directive and waste disposal policies in the waste core strategy which have not been assessed.

Any such change would require a variation to the sites Environmental Permit under the Environmental Permitting Regulations 2010. The new proposals involve the importing an additional 75,230 cubic metres of waste on top of the 500,000 tonnes which is already permitted at the site. This is a significant increase in total volume of waste imports and the Environment Agency would view such application as a disposal activity.

It is likely the only way the development could be completed to the revised levels would be to change the activity type to a Landfill, which would no longer fit with this planning permission.

This objection is supported by paragraph 122 of the National Planning Policy Framework (NPPF) which recognises that the planning system and pollution control regimes are separate but complementary. Planners are asked to consider the acceptability of the proposed use of land and the impacts of that use, but not the control of processes and emissions that will be covered by a permit.

Government planning policy as set out in the National Planning Policy Framework (NPPF) states that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution (paragraph 120).

## **Resolution**

There is no simple resolution to this objection. The solutions to achieve a revised course would be to withdraw the current application and either:

- submit an application for landfill to achieve the levels desired. This would need to be supported by appropriate assessments and be in line with the waste policies and strategies and supported by environmental risk assessments.
- Alternatively the applicant could submit proposals at a reduced elevation to prevent the need for any further import of waste/material and landscape using the material already present on site.

#### **4.4 Hertfordshire County Council - Highways**

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

**INFORMATIVE:**

This application seeks full planning permission to continue importation of inert waste soils and formation materials onto the former parkland site to enable the regrading and laying out of a new nine-hole Par-3 Golf Course. Those areas where imported soils will be deposited and graded are shown on the application plans.

The proposal will be carried out over a projected period of about 2 years, including an estimated 6-8 month importation program after initial set-up. HGV movements will remain the same as that already permitted. The Highway Authority therefore has no objection to the proposal.

**4.5 Hertfordshire County Council – Flood Risk Management**

As the LLFA we assess implication of the new proposal on the water drainage matters.

We note that the application is proposing to continue importation of inert waste soil, which will have implication on water-flows, should improve the drainage strategy within the site and will increase pond capacity.

We would remind that the requirements set out by the conditions 19 and 20 relating to Surface water/Flood risk, are still remaining valid. Hence, the FRA should be updated taking into account the new development and submitted to the relevant authority to be assessed with the aim of discharging those conditions.

**Informative to the LPA**

For further guidance on HCC's policies on SuDS, HCC Developers Guide and Checklist and links to national policy and industry best practice guidance please refer to our surface water drainage webpage

<http://www.hertsdirect.org/services/envplan/water/floods/surfacewaterdrainage/>

**4.6 Hertfordshire County Council - Landscape**

## Landscape Policy & Guidelines<sup>1</sup>

### ***National Planning Policy Framework***

The NPPF<sup>2</sup> promotes the conservation and enhancement of the natural environment and good design, ensuring that developments respond to local character and are visually attractive as a result of good landscape design.

### ***Landscape character***

The site lies within the Arkley Plain landscape character area as defined within the current local Landscape Character Assessment.<sup>3</sup> Dyrham Park is identified as a key characteristic of the area and the landform is described as a '*broadly level and gently undulating plain which rises up ... to the east.*'

- The strategy for managing change in this area is to **improve** and **conserve**. In order to achieve this, the following guidelines should help shape the proposed development: Within Dyrham Park ensure landscape improvements respect the historic context of existing features and the form and character of parkland and gardens.
- Promote the development and implementation of landscape management plans for all golf courses...establishing a strong landscape framework that reflects the historic landscape pattern.

### ***Golf in Historic Parks and Landscapes (Historic England)***

Historic England advice and guidance for 'Golf in Historic Parks and Landscapes' states that, '*Alterations to existing courses can provide an opportunity for positive change in the approach to managing golf in parkland. Proposals should be designed to conserve the fabric, character and significance of the historic environment, to repair any damage done by previous golf development, and to put in place appropriate long term management both in terms of the historic landscape and the enjoyment of the site.*'

### **Conclusion**

Overall the proposal results in more significant negative landscape and visual effects than the extant permission, due to the importation of a larger quantity of material, over a longer duration. The proposed land raising and ground shaping results in a more complex topography and greater changes in level that are at odds with the historic parkland character.

The rationale underpinning the landscape and mitigation proposals is not clear. The landscape strategy should be based upon a more

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<sup>1</sup> The policy and guidance listed is not exhaustive, refer to NPPF and relevant Local Plans

<sup>2</sup> National Planning Policy Framework (7 Requiring Good Design & 11 Conserving and Enhancing the Natural Environment)

<sup>3</sup>Southern Hertfordshire, The Landscape Partnership 2001

detailed understanding of the historic designed parkland landscape, and seek to conserve and restore important landscape features wherever possible.

## **Landscape and Visual Comments<sup>4</sup>**

### ***Cumulative Effects***

#### ***- Quantity of material***

With regards the '9 Hole Par 3 Course' area the submitted information reads that it is proposed to import 75,230 cu m in addition to the 176,000 cu m allowed under the extant permission, resulting in a total of 251,230 cu m of material deposited in this area.

However, these figures are misleading as an independent survey shows that there is already 303,692 cu m of material within this area. The proposal to import an additional 75,230 cu m will therefore result in a total deposition of 378,922 cu m of material. This represents a substantial increase in the volume of imported material that is likely to result in significant landscape and visual effects.

The cumulative landscape and visual effects of the permitted and proposed development, upon the original landscape and visual resource, is a key consideration. The continued deposition of material (above that which is permitted 176,000 cu m), results in extensive land raising and ground shaping, that has a permanent significant negative effect on the landscape resource (historic parkland landscape character) and the amenity of views. See comments under landform.

#### ***- Duration of construction***

It is proposed to carry out the development over two years, in addition to the two years already permitted under the extant permission. The cumulative effects of carrying out construction activities, and delaying the restoration and enhancement of the landscape and views, over a prolonged period of four years is a key consideration.

In this context, four years is considered relatively short term, the delivery of advanced planting would be beneficial wherever possible to help mitigate against the additional negative effects of the development.

### ***Historic Landscape Character***

Dyrham Park has a rich history dating from 1776, and was designed by Lancelot 'Capability' Brown, one of history's most influential landscape architects.

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<sup>4</sup> Comments are given in line with current best practice guidance "Guidelines for Landscape and Visual Impact Assessment Third edition, Landscape Institute and Institute of Environmental management and Assessment." (GLVIA3)

There is strong concern for the submitted landscape details that make little reference to the significant history of the site. Historic designed parkland landscapes are highly likely to include important aspects such as subtle changes in landform, and the careful arrangement of views and vistas, that should be acknowledged, restored and enhanced within the golf course design.

The submitted 'Landscape & Mitigation Plan' (GGD-188-2595) shows a small area of formal historic landscape retained, however the rationale underpinning its design/management is not clear.

Across the site it is proposed to retain some existing landscape features such as individual trees, hedgerow remnants, and two existing ponds; however their distinctiveness is reduced due to the extent of land raising, a complex topography of hummocks and hollows, and numerous golf course features such as greens, tees and the cart track. In such a sensitive setting, where the principle of a golf course has been established, it may be appropriate to introduce a series of localised, incidental hummocks and hollows; however any important historic elements (features and views) should be restored and enhanced to maintain the strength of the historic parkland landscape character.

### **Landform**

#### **- Submitted information**

With regard the submitted plans and sections they should show the original ground levels (as historic parkland before the implementation of the extant permission), the approved levels, and the proposed levels altogether, so that the cumulative effects of the approved and proposed schemes upon the original landscape resource (historic parkland landscape character) can be clearly demonstrated and compared.

The topography of the site, prior to the importation of any material, was relatively flat and gently sloping away to the south. This is consistent with the character of this landscape character area 'Arkley Plain' that is described as a '*broadly level and gently undulating plain.*'

With regards the submitted sections the proposed profile is missing in places.

#### **- Land raising / ground shaping**

Historic England advice and guidance for 'Golf in Historic Parks and Landscapes' states that '*Where change in level are acceptable, but the holes are still within the historic designed landscape, the historic topography should be recorded and the alterations to ground levels should be kept to a minimum, with levels for greens raised by no more than 1m (preferably less), and tees by no more than 0.5m.*'

Notwithstanding the above guidance, there is concern for the extensive land raising, the introduction of a more complex topography of contrived hummocks and hollows, and greater changes in level up to 9m above original ground levels, than the extant scheme that is at greater odds with the historic parkland landscape character and interrupts any visual continuity across the site.

For example there appears to be a distinct, steep valley feature accommodating hole number 5. Section D-D shows the height of the valley sides rising up to 4m higher than the extant permission and 7.5m higher than the original ground levels.

On reviewing the extant permission, it is apparent that levels were limited to 4.5m and more shallow gradients introduced to benefit landscape and views, and ecology. It appears that any such considerations have not been carried forward within the current proposal.

### ***Landscape Planting***

#### ***- Trees and woodland***

The design and construction of the development should be carried out in line with BS5837:2012 “Trees in relation to design, demolition and construction – recommendations.”

There is strong concern for the deposition of material, and the location of the cart track, in close proximity to existing trees to be retained. Existing trees to be retained should be protected from the effects of construction, and development should not take place within the root protection area, as set out in BS5837:2012.

The submitted ‘Landscape & Mitigation Plan’ (GGD-188-2595) shows significantly less woodland planting within ‘9 Hole Par 3 Course’ area than the approved ‘Landscape & Mitigation Plan’ (GGD-188-2128).

The approved plan shows a series of woodland copses and 16 specimen trees scattered across the site. However the current plan shows a much larger and more open area of species rich natural grassland with 24 specimen trees. The overall loss of tree cover is of concern; however the woodland and tree strategy should be informed by the historic parkland design. For example the submitted information refers to the remnants of a tree avenue, where was this and could it be restored?

### ***Cart track***

The proposed cart track is not in keeping with the historic parkland character and appears as a scar in the landscape.

## **4.7 Campaign to Protect Rural England**

CPRE Hertfordshire objects to the above proposal. No meaningful justification is set out in the applicant's Planning Statement for the importation of an additional 75,000 cubic metres of waste to construct a different landform to that approved under application 0/2529/10, and shown on the approved plans. Such justification is essential to justify departure from Green Belt policy as set out in the NPPF, the Hertsmere Core Strategy, and the Council's own Waste Core Strategy.

References to a desire for 'future-proofing' of the new course against as yet unknown and necessarily unpredictable events that might affect the site's drainage, do not constitute a very special circumstance sufficient to override the presumption against inappropriate development in the Green Belt. To the extent that they are relevant to the new course, such considerations were clearly taken into account when the current permission was determined by the Council as informed by the Flood Risk Assessment at that time.

Given the proposed significant increase in the height of the proposed landform in several areas already permitted by the existing permission (over 5.5 metres at one point), we consider that there would be an adverse impact on the openness of the Green Belt, the setting of the listed Dyrham Park, and of the Historic Parkland.

Although the extent of the proposed changes is shown in the submitted cross-sections, and we draw the Council's attention to section C-C which shows an incomplete central section of the proposed ground level at a point of major proposed change to the landform.

Furthermore, we are concerned that the introduction of the artificially surfaced buggy track through the entire par 3 course, referred to in paragraph 7.10 of the Planning Statement and shown on the proposed masterplan crossing what is the currently protected Historic Landscape Area around the long-established Dyrham Park Pond, would have a significantly adverse impact on the Historic Park landscape, and should not be permitted.

CPRE Hertfordshire therefore asks the County Council to refuse the application, and to ensure that the works to complete the permitted development are carried out in accordance with the current planning permission and its attendant conditions.

#### 4.8 Hertfordshire Gardens Trust

HGT and The Gardens Trust (of which HGT is a member) object to this application. We note no reference has been made to the importance of the landscape laid out by 'Capability' Brown in the mid 1760s, the large amount of money expended on this indicate an important remodelling of the landscape.

No meaningful justification is included in the documents to import large amounts of waste and thus change the Brownian landscape. Further the suggestions for landscaping the pond take no account of the historic planting of Cedars of Lebanon, a tree much used by Brown, nor of the original sculpted shape of the pond. We are aware that this landscape has been referred to Historic England for inclusion on the Register as this is the tercentenary of the birth of Brown and thus his landscapes are a focus in 2016. We would urge you to consult Historic England on this application.

#### 4.9 Third Party Comments

The application was advertised in the press and a total of 29 letters were sent to residents and other premises in the surrounding area. A site notice was erected on 8 March 2016.

Seven responses have been received, all objecting to the application. These can be summarised as follows:

- There is a risk to highway safety as Galley Lane is narrow, often single track and not wide enough for the HGVs.
- The road was previously severely damaged with considerable pot holes and damage to verges. The surface of the road has since been repaired, although not at the expense of the developers.
- The early morning running of HGVs into the site during the rush hour onwards will pose a risk to highway safety.
- There was previously mud on the road as a result of the development.
- The wheel wash was not always used as there was no site officer ensuring that this took place.
- Residents' cars were often covered in mud due to HGV traffic and mud on the road.
- Drainage has resulted in water coming from the site and running down Galley Lane – this has frozen in the winter resulting in a hazard.
- The developers previously flouted HGV numbers going into the site.
- Trotters Bottom was regularly used by HGVs accessing the site in contravention of the planning permission.
- There has been damage to residents' walls and a driveway through HGVs running over them/against them – the developers have refuted that they are the cause of this and refused to make repairs.
- The developers have already flouted the planning permission by importing more waste than was permitted.
- Waste was previously deposited outside areas covered by the planning permission.
- The existing development is an eyesore. The proposed further importation will make this worse.
- The historic parkland at Dyrham Park is being spoilt by this development.

- The application site used to be attractive meadows – it's now a wasteland.
- The proposed 'wildlife areas' have already been tipped on, destroying the ecology that previously existed.
- Ancient trees sit at a lower level to the imported waste – this must have an adverse impact on them.
- Drainage along the footpath running through the site has been adversely affected due to the dumping of soils. A swampy area has been created, which is foul smelling.
- Drainage issues have resulted in turbidity in Mimms Hall Brook, which is where drinking water in the area is obtained from.
- Drainage and its impact on existing trees is of concern.
- The main sewer runs along Mimms Hall Brook – this could be compromised by the development resulting in pollution of the brook.
- The survival of existing trees on the site is unlikely as soils have been piled up against them.
- The proposal will result in significant disruption through the further importation of material.
- The developers should complete the development in accordance with the existing planning permission.
- There should already be significant funds to finish the development, especially as it has already been over tipped.
- The proposed course is far smaller than the one already given planning permission so there is no need for additional waste material.

## **5. Planning Policy**

### ***National Planning Policy Framework 2012 (NPPF)***

- 5.1 The NPPF was released in March 2012. The NPPF contains the presumption in favour of sustainable development. The document also promotes the development plan as the starting point for decision making and that decisions should be made in accordance with an up to date Local Plan unless material considerations indicate otherwise.
- 5.2 The NPPF refers to three dimensions of sustainable development; economic, social and environmental and the purpose of the planning system being to contribute to the achievement of sustainable development. In order to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life and improving the conditions in which people live, work, travel and take leisure.
- 5.3 The NPPF also seeks to protect Green Belt land stating that the fundamental aim of Green Belt policy is to prevent urban sprawl by

keeping land permanently open; the essential characteristics being their openness and their permanence. Green Belt purposes include checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns merging into one another; assisting in safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 5.4 Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

***National Planning Policy for Waste 2014 (NPPW)***

- 5.5 This policy document seeks to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment, together with ensuring the design and layout of new development and other infrastructure such as safe and reliable transport links complements sustainable waste management.

***The Development Plan***

- 5.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.7 The development plan comprises the Hertfordshire Waste Development Framework Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026 (the Waste Core Strategy), and the Hertsmere Local Plan.
- 5.8 The most relevant planning policies to consider for this application are:

**Hertfordshire Waste Development Framework  
Waste Core Strategy and Development Management Policies  
Development Plan Document 2011-2026**

Policy 1A – Presumption in Favour of Sustainable Development  
Policy 4 – Landfill and Landraise  
Policy 6 – Green Belt  
Policy 13 – Road Transport & Traffic  
Policy 15 – Rights of Way  
Policy 16 – Soil, Air and Water

**Hertsmere Local Plan 2003**

Policy C1 – Green Belt  
Policy C4 – Development Criteria in the Green Belt  
Policy L1 – Leisure and Recreational Developments – General Principles  
Policy L2 – Leisure and Recreational Developments – Environmental Criteria  
Policy L6 – Sports Facilities  
Policy E2 – Nature Conservation Sites – Protection  
Policy E7 – Trees and Hedgerows – Protection and Retention  
Policy E8 – Trees, Hedgerows and Developments  
Policy E16 – Listed Buildings – Development Affecting the Setting of a Listed Building  
Policy D3 – Control of Development Drainage and Runoff Considerations  
Policy D4 – Groundwater Protection  
Policy D21 – Design and Setting of Development

### **Hertsmere Local Plan Core Strategy 2013**

Policy CS13 – The Green Belt  
Policy CS14 – Protection or enhancement of historic heritage assets  
Policy CS15 – Promoting recreational access to open spaces and the countryside

## **6. Planning Issues**

### The extant planning permission and current situation

- 6.1 The current planning permission allows for the importation of clean soils to carry out improvements to an existing driving range within the confines of the existing 18-hole golf course, together with the creation of an additional nine-hole academy golf course on land to the south of the 18-hole course. The development was to be carried out in two phases. Phase 1 consists of the improvements to the driving range, and Phase 2 consists of the entirety of the new nine-hole course. Commencement of Phase 2 is reliant on Phase 1 being completed to the satisfaction of the local planning authority.
- 6.2 Phase 1 has been completed to the satisfaction of the county council. Its finished contours do not accord with the approved drawing, but it was considered that there were justifiable reasons for the developers to deviate from the approved plans. The first of these was the need for the driving range to tie in with existing drainage provisions and not to result in drainage issues of its own, which would have affected it as well as the surrounding part of the existing historic 18-hole course. Secondly, the slight realignment of the driving range assists in terms of ensuring that balls hit from the driving range do not stray onto the course itself. It was therefore concluded that, although the resultant driving range has not been built in accordance with the approved drawings, it does not result in development that significantly impacts on

openness, nor is it visually intrusive. In addition, the works do not have any significant impact on the setting of the listed building. The county council invited the country club to make a retrospective planning application to cover the changes to Phase 1, but it chose not to. It was therefore formally determined that the changes to the driving range were acceptable and that it would not be expedient to take enforcement action to remedy the breach.

- 6.3 The total amount of waste to be imported for both Phases 1 and 2 under planning permission 0/2529-10 was to have been 250,000 cubic metres. The new nine-hole academy course (Phase 2) was to have had 176,050 cubic metres of fill. However, further to concerns that more waste had been imported than was originally permitted, the county council commissioned a survey of Phase 2. This took place in March 2014 and indicated that a total volume of 303,692 cubic metres of waste material had been imported to Phase 2, representing a 72.5% increase over permitted volumes.
- 6.4 As a consequence of this, the county council, in its capacity as local planning authority, advised that importation to the site should cease. At approximately the same time, the licence to carry out the works – granted by the county council in its capacity as landlord – expired, and negotiations have since been ongoing with a view to the country club obtaining a further landlord's consent to continue working on the site. Therefore, no significant works have taken place on site since March 2014 and, although substantial quantities of waste materials have been imported and deposited within Phase 2, none of the proposed nine-hole golf course has been created.

#### Description of the proposed development

- 6.5 The present planning application seeks to remodel the proposed nine-hole academy course from the design that was granted planning permission in 2011. As part of this, the applicants wish to import further waste materials into Phase 2, amounting to an additional 75,230 cubic metres of soils. Adding this to the material already present (from the March 2014 survey), this would give an overall volume of 378,922 cubic metres of imported material within Phase 2. Sections have been provided by the applicant to show that the resultant landform will be both higher and lower in places when compared to the approved development.
- 6.6 In respect of the course layout itself, this differs from that approved in 2011. Whilst the original design incorporated the full extent of the application site, the proposed design squeezes the nine-hole course into a smaller geographical area, with a large swathe of land on the western edge of the site alongside Galley Lane not forming part of the playing area, but now being devoted to acid grassland. As a consequence, the playing distance of the proposed nine-hole course will be shorter than the approved academy course. A two metre wide

cart track is proposed to run through the course to enable less mobile members to be able to play the course. There are also changes to the landscaping and planting when compared to the original approved scheme.

- 6.7 A water-flow analysis plan accompanies the application as the applicant states that the prevention of waterlogging and subsequent closure of the site is required in order not to lose revenue. Accordingly, land levels have changed to accommodate adequate drainage capacity and to ensure relief from future flood events within the proposed nine-hole course. This strategy takes into account drainage problems that the applicant encountered when carrying out the development of the driving range (Phase 1).

### **Planning issues**

#### **Green Belt**

- 6.8 The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. One of the stated five purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The provision of opportunities for the provision of outdoor sport and recreation is encouraged within such areas, together with the retention and enhancement of landscapes, visual amenity and biodiversity.
- 6.9 As with previous Green Belt policy, the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This situation is reinforced by Policy CS13 of the Hertsmere Local Plan Core Strategy 2013.
- 6.10 The NPPF states that engineering operations would not be inappropriate within the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.
- 6.11 Policy C1 of the Hertsmere Local Plan reiterates the general presumption against inappropriate development in the Green Belt, with permission not being granted unless there are very special circumstances that overcome the harm. Policy C4 of the same plan sets out development criteria within the Green Belt. Criterion (i) states that development should be located as unobtrusively as possible and advantage should be taken of site contours, landscape features etc. to minimise the visual impact of development. Criterion (iv) states that the scale, height and bulk of the development should be sympathetic to, and compatible with, its landscape setting and not be harmful to the openness of the Green Belt.

- 6.12 Over the extent of the 18.34 hectare site, the originally approved scheme proposed – on average – an increase in land levels of 96cm. This was based on a total volume of importation to Phase 2 of 176,050 cubic metres. When the original planning application for the academy course was determined, it was considered that the amount of landraising involved would result in the retention of the land as a green space. In addition, although the topography, appearance and use of the land would change as a result of the development, it was concluded that there would be negligible harm to the openness of the Green Belt as a result of the development. Furthermore, it was considered that the proposed nine-hole course would provide a further beneficial outdoor sport/recreational use of the Green Belt, together with the provision of enhancements to the local landscape by virtue of the proposed landscaping and planting scheme, together with ecological benefits through the retention and creation of habitats and ongoing management and monitoring of wildlife on site.
- 6.13 It was also considered at that time that there was a need for the importation of clean soils in order to construct the academy course. This was due to the underlying geology of the application site, where it consists of London clay overlain with clayey soils. These are poor draining, becoming waterlogged over the autumn and winter periods. The resultant landraising exercise was therefore considered necessary in order to be able to provide modern golf course drainage and to shape the land to control surface water drainage.
- 6.14 Furthermore, the applicant advised that the landraising was necessary in order to create a high standard golf course suitable for beginners but providing sufficient challenge for existing players. Mounding, features and contours had therefore been designed to lead golfers towards the fairways and greens, thus limiting wayward shots but also creating a degree of challenge.
- 6.15 Consequently, it was concluded that the originally approved scheme for the academy course complied with Green Belt policy. The present planning application again seeks to provide a nine-hole academy golf course on the land. On the face of it, this again conforms to Green Belt policy, subject to it having no impact on openness. If there is an adverse impact on openness, it is clear that there should be very special circumstances that overcome the harm.
- 6.16 The originally approved development consisted of relatively modest re-contouring of the land. As explained in paragraph 6.12 of this report, this resulted in an average increase of 96cm across the site area.
- 6.17 As previously explained, significantly more material has been imported to Phase 2 than was originally approved. A further 127,642 cubic metres of waste material has been imported in addition to the approved amount of 176,050 cubic metres. The proposed remodelling also

seeks to use a further volume of imported waste material, amounting to another 75,230 cubic metres. Consequently, should permission be granted, it would allow 378,922 cubic metres of material to have been imported to the site. Simplistically, over the extent of the 18.34 hectare site, this amounts to an average raising of the land by 2.07 metres across its entire area. This is a substantial and significant change to the originally approved development proposal, taking the average raising of the level of the land from 96cm to 207cm; constituting a 115% increase in levels – and volumes – when compared to the approved scheme. Even if no further importation occurred, the excessive waste materials presently within Phase 2 result in an average raising of the land by 165cm, which constitutes a 72% increase over permitted levels and volumes.

- 6.18 By way of comparison, within the western-most part of the site adjacent to Galley Lane the original scheme proposed landraising principally between 0.5 metres and 2 metres in height, with one high point of 3 metres. This is the area of land that the proposed scheme seeks to remove from the golf playing area, with the present proposal seeking to devote this to acid grassland. However, the proposed scheme looks at significant increases in land levels in this area, with a high point of approximately 5 metres on the northern part of this area and a 7 metre rise over original ground levels to the south. Moving eastwards into the land (on the strip of land running to the west of the ornamental pond) the original scheme would have resulted in a rise of generally between 0.5 metres and 2 metres across the land, although the northern-most section would have been higher, reaching peaks of 3 metres and 4 metres above original ground levels. The proposed scheme will have its highest points approximately 6 to 7 metres above the original ground levels in this section. Moving further east (on the strip of land running to the south of the ornamental pond) the approved scheme results in a general landraising of between 1 metre and 2.5 metres, with high peaks of 3 metres and 4.5 metres just to the south of the pond. The proposal is to now have a high point of approximately 8 metres to the south of the pond and peaks of 4 to 5 metres to the south of this strip. Finally, the eastern-most strip of the land was originally to have consisted of a central mound rising to 4.5 metres above original ground levels, with a bunded area to the eastern boundary – separating the academy course from the existing 18-hole course – rising to between 1.5 and 2 metres above original levels. The proposed scheme looks to create a central mound that is 9 metres above original ground levels, with the eastern bund being 3 to 4 metres above original levels.
- 6.19 Whilst the original scheme was looking at a remodelled landscape with high points of no more than 4.5 metres above original ground levels, the proposed scheme looks at doubling this maximum height. Furthermore, the approved scheme sought to increase the land levels in general by less than 2.5 metres across the main area of the site. Only two areas were to be raised by more than 3 metres in height: the area to the south of the ornamental pond where the first high point of

4.5 metres was intended; and the central mound on the eastern part of the course, again where a 4.5 metre rise in levels was intended to go. However, the proposed scheme will result in large areas of the course being over 4 metres in height, rising to the numerous high points well in excess of 4.5 metres.

- 6.20 The proposed academy course would take the development well beyond the scale of the development that was granted planning permission in 2011. At that time, the relatively modest raising of the land was considered to have no or negligible impact on openness. This can no longer be considered to be the case. It can be considered that the proposed development constitutes a very large engineering operation within the Green Belt. Although the NPPF considers that engineering operations would not necessarily be inappropriate within the Green Belt, this is subject to such schemes preserving the openness of the Green Belt. Landraising on the proposed scale would clearly impact upon openness.
- 6.21 Additionally, the significant amount of waste material that is proposed to be imported – together with the proposed retention of a substantial volume of waste material that does not benefit from planning permission – is such that it is considered that, irrespective of the proposed end use, the proposal would go above and beyond that of an engineering operation and would actually amount to a change of use for waste disposal. This situation is confirmed in the response from the Environment Agency, who considers that:

“The development could no longer be a waste recovery activity and would be regarded as a waste disposal activity (i.e. a Landfill). This is because the development is no longer minimising the quantity of waste required for the development. As such, this development would need to comply with the Landfill Directive and waste disposal policies in the waste core strategy which have not been assessed.”

On this basis it is considered that the proposal constitutes inappropriate development in the Green Belt.

- 6.22 With reference to Policy C4 of the Hertsmere Local Plan, it is clear that the development would not be located as unobtrusively as possible, nor would it respect existing site contours or landscape features within the site. The county council’s Landscape Officer assessed the potential impact of the proposed scheme on the landscape, and concluded that:

“the extant scheme....is at greater odds with the historic parkland landscape character and interrupts any visual continuity across the site. For example there appears to be a distinct, steep valley feature accommodating hole number 5. Section D-D shows the height of the valley sides rising up to 4m higher than the extant permission and 7.5m higher than the original ground levels. On reviewing the extant permission, it is apparent that levels were limited to 4.5m and more

shallow gradients introduced to benefit landscape and views, and ecology. It appears that any such considerations have not been carried forward within the current proposal.”

- 6.23 The wider impact of the development upon the landscape is examined in greater detail later within this report. Suffice to say, however, that the proposed development would result in development that is visually intrusive when viewed from public and private vantage points, being incongruous with its wider setting and having an unacceptable impact upon the openness of the Green Belt.

*Very special circumstances*

- 6.24 Due to its inappropriateness, it must be considered whether there are any very special circumstances that override the harm to the openness of the Green Belt.

- 6.25 Prior to the submission of the original planning application, the country club commissioned a detailed examination of the fabric of the clubhouse, which is a Grade II listed building. It was always the intention of the original planning application that funds that would be generated through the importation and deposit of waste would be diverted towards the upkeep of the listed building. This was considered to be a material planning consideration, with the original committee report stating:

“It is accepted that the importation of soils would generate an income for the country club. The applicant has stated that any proceeds from the development would be used for repairs and ongoing maintenance of the Grade II listed club house, some of which are urgent. The generation of income for the maintenance of a listed building is a material planning consideration.”

- 6.26 It was therefore apparent that a large justification for the original scheme was the repair and maintenance of the listed building. Ordinarily, such matters would have been dealt with by way of a legal agreement to ensure that these works were carried out. However, this was not considered necessary due to the fact that the county council is also the landlord of the site, with the committee report stating:

“Concerns have been raised with regards to ensuring that funds generated by the proposal would be used for repair/maintenance of the listed building. The land is leased from Hertfordshire County Council. A requirement of the lease is that the building is maintained in good order and as such the applicant is obliged to repair and maintain the building. In addition, Hertfordshire County Council as landowner has advised that landlord consent would be required for the proposed development and as part of that, an agreement could be made to ensure that the funds are dedicated to the repair and upkeep of the listed building.”

- 6.27 Consequently, despite planning permission being granted on the basis that funds would be diverted to the listed building, there was no requirement within the planning permission for accrued funds to be spent on the upkeep of the clubhouse as such matters could be dealt with by the county council in its role as landlord.
- 6.28 The present application acknowledges the need for the country club to continue to maintain and repair the listed building. However, the applicant states that “the combined extent of the identified remedial and repair required works was costed and it was concluded that compliance costs were then, and remain now, beyond the current resources of the club. Based upon existing opportunities and income streams, insufficient income would be generated from the then levels of activity and facilities to meet financial demands for future maintenance of this Grade II listed building.”
- 6.29 The applicant continues by stating that membership numbers are in decline, which is a trend observed at golfing enterprises elsewhere. It is stated that “this can be attributed, in part, to current economic circumstances, market competition from alternative courses and the more limited, less flexible and aging, golfing experience offered at (Dyrham Park) in comparison with more modern and extensive courses.” The country club is therefore looking to expand and diversify the facilities available to an extended clientele and membership through the creation of the nine-hole course. This will (a) enable pressures upon the existing course to be relieved; (b) widen the flexibility of combinations of course play; (c) potentially increase membership numbers and income; (d) widen the ability of the club to accommodate less mobile players; and, (e) meet the lease obligations bearing down on the club.
- 6.30 The club states that the completion of ongoing improvements and additions to facilities, together with the restoration of the Grade II listed building, are dependent on the development of the nine-hole course. Furthermore, the club states that this is essential to business viability. The completion of the proposed enhancements is expected to secure the commercial future of the country club and the condition of the clubhouse. In addition, staff numbers would possibly increase to ten persons. Anticipated growth in membership numbers will also fund growth in catering staff levels and administrative support.
- 6.31 The application is therefore based upon a financial appraisal undertaken by the club. The applicant states that this demonstrates that the scheme for the academy golf course that was approved in 2011 is no longer viable because (i) anticipated revenue streams are insufficient, and (ii) costs of development are unaffordable.
- 6.32 The financial statement that the club has produced in conjunction with this application has been submitted on a strictly confidential basis,

which may be disclosed between Planning Officers and Committee Members solely in connection with the determination of this planning application. As such, the finer details of the financial statement are not reproduced within this report but, as the details provide the anticipated justification for the present application, it is necessary to provide a general commentary in respect of it.

- 6.33 In the first instance, the financial report is rather vague and goes into little detail of revenue and expenditure streams. Further information was requested from the applicant, yet it is considered that this again fails to provide the complete picture in respect of the club's finances where they relate to the construction of the academy course.
- 6.34 Scrutiny of the financial report firstly raises concerns in terms of the overall income raised through the importation and deposit of waste. Officers consider that the total revenue from the tipping of waste appears to be an underestimate based on the county council's survey of the site and, from this, its own estimate of the number of HGVs that have tipped at Dyrham Park. In addition, the financial report shows that just less than 50% of the income from the landraising operation has been spent on what is described as "refurbishment and repairs" of the clubhouse. Even then, a significant portion of this was spent on matters that cannot be described as essential repairs to the listed building, such as the renovation of the bar, bistro and card room. Where repairs to the listed building have been listed, there is no documentary evidence that shows an audit trail of how much has been spent and where.
- 6.35 Other revenue from the tipping of waste has been spent on what is described in the financial report as "clubhouse – general expenses", and "clubhouse – kitchen expenses". These include such items as the renovation of the tennis courts, a new patio and renovation of existing terraces, the upgrade of equipment and furniture, the renovation of the caddy area, upgrade and expansion of the reception link walkway and storage area, replacement fridges, and replacement combi ovens. A large amount of money has also been spent on improvements to the existing 18-hole golf course, including such items as pathway constructions, golf course furniture, renovation of bunkers and irrigation, woodland management, remodelling of all 18 holes, and a practice net and short game facility. This total expenditure results in a significant deficit in the club's accounts compared to the amount of revenue it has received from landraising. Importantly, these items again fall outside what can be described as the repair and maintenance of the listed building, which is where the revenue from the tipping of waste should have been diverted to.
- 6.36 The club also identifies a significant amount of money that is required to carry out further maintenance and repairs to the listed building over the course of the next five years, hence the need for the approval of this application to not only allow further funding through the importation

of waste, but also in terms of providing an academy course that is attractive to golfers and which is therefore commercially viable. However, no individual breakdown or estimates have been provided to show that the anticipated costs of these works are fair and accurate. Irrespective of this, had all of the revenue from the tipping of waste been set aside for the maintenance and repair of the listed building, then this would not only have covered the works that have already been carried out but would have funded the identified works that are needed over the course of the next five years. Consequently, from the point of view of the maintenance and repair of the listed building, there are no very special circumstances that justify the granting of this application as no shortfall in the funding of these works has been identified.

6.37 In respect of the need to redesign the academy course to enable it to become financially viable into the future, the applicant has set out a number of key aspects of the club's revised proposals, which are as follows:

- The completion of the development of the former parkland to create an additional par-3 nine-hole golf course and to integrate that with the existing 18 hole course creating a 27 hole facility with greater flexibility.
- The completion of enhancements to the immediate surrounding areas adjacent to the established course and the new golf holes.
- The continued improvement in playing conditions, following investment in more modern and sophisticated golf equipment and possible engagement of additional green-keeping staff.
- Facilitate greater access to local residents, through membership, events, society days, developing and enhancing the golf facilities for learners, etc.
- To continue to seek to develop junior golf by engagement and partnering with local schools and conducting training programs to support the curriculum.
- To more sustainably manage the green-keeping regime on the new course and the existing course with new equipment and irrigation capabilities.
- Undertake adjustments to the current course to enhance design and improve safety margins.
- To provide an additional facility to attract new players and provide a short-term option for established golfers.
- Improve course drainage and irrigation and bring about a more environmentally sustainable regime which in turn will extend availability and facilitate year-round golf activity.
- To complete the previously approved landscape scheme with the additional already-approved ecological enhancements and establish a management program for all estate trees, planted areas and rough terrain, including the creation of a more diverse wildlife

environment with a subsequent detailed program of protection for sensitive habitats and ecological areas.

- Create and extend course access to enable more extensive use by golf buggies, particularly for the mobility impaired golfer.
- Ensure more open access to this part of the Green Belt for members and visitors alike.

- 6.38 However, all of the above criteria are substantially the same as those put forward when the planning application was submitted for the original academy course. There is no explanation within the criteria why a significantly re-contoured landscape is required and why all of the above objectives could not have been delivered as part of the original scheme.
- 6.39 The primary objectives of the original scheme were more or less the same as they are now, being those set out in paragraph 6.29 of this report. There is no detailed analysis of how the redesigned scheme will differ to the approved course in terms of (a) its ability to enable pressures on the 18-hole course to be relieved; (b) its ability to widen the flexibility of combinations of course play; (c) its ability to increase membership numbers; (d) its ability to accommodate less mobile players; and (e), its ability to meet the lease obligations in respect of the upkeep of the listed building. This latter point has already been addressed in this report. Importantly, the applicant has not provided any detailed evidence to support the claim that the redesigned academy course will result in an increase in revenue, either through halting and reversing the current decline in membership that the club is experiencing, or from accruing additional revenue from more casual use of the academy course, when compared to the original scheme.
- 6.40 The applicant states that since planning permission was granted for the academy course, the nature of golf has changed and course design is moving towards shorter courses that can be played more quickly, hence the present application that seeks to accommodate the par-3 course on a smaller area of the site. In addition, the applicant proposes to incorporate “buggy” pathways and tracks to all new holes to enable the use of the course by aging golfers with mobility limitations.
- 6.41 It is accepted that the proposed course will be significantly shorter in playing length than the course that was approved. It is also accepted that there may be a need for a shorter par-3 course to supplement the primary course at Dyrham Park. Therefore, the rationale for a shorter course is not in doubt. What has not been adequately explained, however, is the need for the retention of substantial volumes of waste material that has already been over tipped on the land, together with the importation of a significant further volume of waste. Whilst a reconfiguration of the course and its fairways, greens and tees would undoubtedly result in a change in the contours, there has been no detailed explanation of why this could not have been achieved with the originally approved volume of imported waste material, especially as

the proposed course will be shorter and cover a much smaller area within the overall site.

- 6.42 In terms of mobility, it is considered that “buggy” tracks could have been incorporated into the original scheme, depending on their suitability within the landscape. It is also difficult to understand how a course that will provide dramatic changes in levels well beyond the relatively small re-contouring of the land that was originally proposed will offer benefits to the less mobile golfer.
- 6.43 The applicant also states that the existing 18-hole course is more susceptible to waterlogging and flooding than the academy course, being partly within Flood Zones 2 and 3. Consequently, the nine-hole course would mean that members, guests and visitors are able to at least play the par-3 facility when the 18-hole course is closed, and subsequently make use of the club’s other facilities. Consequently, the application stresses the need to future-proof the new academy course against waterlogging and subsequent closure, which would lead to loss of revenue. Thus a key element of the present application is the improvement to drainage within Phase 2. The applicant states that “the present scheme in relation to the identified ground conditions dictates that within the new nine-hole course, capacities are required to overcome prospects for waterlogging, standing water and poor overall drainage”. This is apparently derived from experience obtained during the construction of the remodelled driving range (Phase 1).
- 6.44 In reality, the days in which the main course is closed due to flooding will be relatively small. Irrespective of this, the planning statement submitted alongside the original planning application made similar claims, stating that waterlogging, standing water and poor overall drainage would be eradicated as a result of the carrying out of the construction of the nine-hole course with an integral drainage scheme. There is no explanation why the approved scheme would not now provide the level of drainage that was originally envisaged, nor is there any explanation as to why the solution to any drainage problems would be the need for the importation of over double the original volume of waste material, resulting in increases in up to 9 metres in terms of original ground levels.
- 6.45 The applicant states that the reconfiguration of the 9-hole course enables a greater area to be set aside and used for more extensive landscape planting, thus enhancing the setting of the entire estate and facilitating greater screening of the golf facility. However, the primary area that has been set aside for landscape planting along the western boundary of the site has already been significantly raised without any real explanation or justification, especially as it has been removed from the playing area of the academy course. Whilst the applicant may argue that this facilitates the screening of the course from views from the west along Galley Lane, there would be no need for such a

dramatic change in levels to provide a screen if the originally approved course had been built to the approved contours.

Landraising, landscape and general development criteria

- 6.46 Policy 4 of the Waste Core Strategy considers development proposals that relate, amongst other things, to landraising. This states, inter alia, that proposals should demonstrate the visual impact of the proposed development and its impact on the character of the landscape and any mitigation. If necessary, additional landscaping, planting and screening should be proposed.
- 6.47 The policy continues by stating that the disposal of waste and restoration with inert material by raising the level of the land will only be granted planning permission where certain criteria are met. Criterion i) states that permission will be granted where it would assist the preparation of the land for other approved development proposals. However, planning permission exists for an academy golf course with a fundamentally different landscape to the one that is proposed. Landraising was approved as an integral part of that approved scheme. This further proposed landraising would not assist in preparing the land for other approved proposals.
- 6.48 Criterion ii) of Policy 4 states that planning permission for landraising will be granted where the land is derelict or degraded. Whilst the present condition of the land is derelict, this is as a direct consequence of the large scale deposits of waste across its surface as a preliminary means of constructing the originally approved nine-hole course. Criterion iii) states that permission will be given for landraising if it would result in significant other environmental benefit. However, it has not been demonstrated how the proposed re-contouring of the land would give rise to significant environmental benefits when compared to the approved development.
- 6.49 Criterion iv) of Policy 4 is not relevant to this application. However, criterion v) states that permission will be given for landraising where it can be demonstrated that it will not give rise to unacceptable implications to human health, amenity, landscape and the environment.
- 6.50 The adverse impacts of the proposed development on landscape have already been touched upon within this report where the visual impacts of the proposal – and its subsequent impact on openness within the Green Belt – have been considered. In addition to this, however, the implications to the historic Dyrham Park landscape and the wider setting of the landscape need to be assessed in some detail.
- 6.51 The NPPF seeks to ensure that developments respond to local character and are visually attractive as a result of good landscape design. As such, the NPPF promotes the conservation and enhancement of the natural environment and good design. Policy

CS14 of the Hertsmere Local Plan Core Strategy 2013 considers the protection or enhancement of heritage assets such as historic parks and gardens. This states that development proposals should be sensitively designed to a high quality and not cause harm to such features.

- 6.52 The application site lies within the Arkley Plain landscape character area as defined within the current local Landscape Character Assessment. Dyrham Park is identified as a key characteristic of the area and the landform is described as a “broadly level and gently undulating plain which rises up ... to the east.” The strategy for managing change in this area is to improve and conserve. In order to achieve this, the county council’s Landscape Officer recommends that within Dyrham Park, landscape improvements should respect the historic context of existing features and the form and character of parkland and gardens. There should also be promotion of the development and implementation of landscape management plans for all golf courses, thus establishing a strong landscape framework that reflects the historic landscape pattern.
- 6.53 The country club is a locally registered park by virtue of being former parkland estate with a high number of mature trees. As set out within the Landscape Officer’s comments, Dyrham Park has a rich history dating from 1776, and was designed by Lancelot ‘Capability’ Brown, one of history’s most influential landscape architects. Hertfordshire Gardens Trust picks up on this, stating that “we are aware that this landscape has been referred to Historic England for inclusion on the Register as this is the tercentenary of the birth of Brown and thus his landscapes are a focus in 2016. We would urge you to consult Historic England on this application.” Historic England has not, however, responded to the consultation regarding this application.
- 6.54 Nevertheless, the county council’s Landscape Officer has highlighted Historic England’s advice and guidance for ‘Golf in Historic Parks and Landscapes’, which states that “Alterations to existing courses can provide an opportunity for positive change in the approach to managing golf in parkland. Proposals should be designed to conserve the fabric, character and significance of the historic environment, to repair any damage done by previous golf development, and to put in place appropriate long term management both in terms of the historic landscape and the enjoyment of the site.”
- 6.55 In the development’s context with the wider landscape, a public footpath runs alongside the southern boundary of the application site. There are extensive views into the site as one walks along this. In particular, much of the eastern area of the proposed 9-hole course is visible from the right of way. Whereas the approved scheme would have represented a relatively gentle re-contouring of the land, with the land rising shallowly away from the footpath – rising to a maximum of 4.5 metres above original ground levels – this part of the course will

instead have peaks of 8 and 9 metres above original levels, with a significant area of the eastern part of the site being over 4 metres above those original levels. This very sharp rise in levels – when viewed from the footpath – will result in a hard physical visual barrier, wholly out of keeping with the surrounding landscape, jarring with the surrounding landscape from a visual perspective. This is likely to have an overbearing relationship with the footpath, with users feeling overly enclosed by the landscape to the north of it.

- 6.56 Another public vantage point is from Galley Lane to the west of the application site. There are presently views into the site from the existing construction access off this road, with the very unnatural features of the landscape being apparent from here. However, it is proposed to ultimately close this entrance point and to provide additional screening along this boundary through planting. Therefore, there will be minimal visual impact on users of Galley Lane.
- 6.57 There are also wider views of the application site from The Shire (London) Golf Course, which is to the south east of Dyrham Park but whose clubhouse faces the application site from a distance of approximately 1250 metres. There also views from the urban fringe of Barnet, located approximately 1500 metres to the south east of the application site. However, these views are distant and, from such a distance, the proposed changes in the levels of the land are unlikely to be significantly perceptible.
- 6.58 From a private perspective, there are two large detached properties in the south western corner of the application site, known as Brook House and Little Dyrham. The original land levels fall from north to south in the area to the north and north-east of these properties, with the houses looking onto a mild rise in the land towards the main clubhouse. The approved scheme for the 9-hole course respected the topography in this part of the site, with predominantly low rises in the level of the land of generally up to an extra 2 metres above original levels. There was to be one significant peak of 3 metres above original levels, located approximately 80 metres to the north of the houses. However, the proposed scheme will result in large areas of the land to the north and north-east being over 4 metres above original levels. The approximate area where the single peak was going to be is now to be 7 metres above original ground levels, with another peak of approximately 8 metres some 130 metres to the north-east of the residential properties. Not only will the scale of the landraising in these areas be out of keeping with the wider landscape, the resultant land form will be of a scale and bulk that dominates Brook House and Little Dyrham and their outlook. Furthermore, users of the academy course will have clear views down and into these residences and their grounds, adversely impacting upon privacy and residential amenity.
- 6.59 Additionally, the planning application does not, to any considerable degree, set out how the proposed development will integrate with this

historic parkland. The existing 18-hole course consists of gently undulating parkland interspersed with mature trees. Although man-made in its form and design, the course is attractive and respects the original topography and features of the Dyrham Park site. It is therefore critical that the proposed development respects this historic landscape, especially where the two adjoin each other.

- 6.60 One of the most critical areas is along the north-eastern boundary of the application site, which runs alongside the 18<sup>th</sup> fairway of the existing course. There are clear views from the latter into the proposed academy course. However, it is proposed to significantly raise the eastern-most area of the academy course to the south of the existing fairway so that it is 9 metres above original ground levels. This will result in a visual jarring within the landscape, dominating views when looked at from the existing course. Landraising on such a level would ultimately be wholly incongruous with the historic parkland setting of Dyrham Park. The actual junction between the two sites in the far eastern corner of the application site has been more sympathetically designed, yet this still provides a bund of between 3 and 4 metres in height along this junction. This provides too much of a physical barrier between the two courses, with no real link between the two landscapes. In addition, this banded area has already been constructed and planted, and it appears to be higher than the proposed development shows.
- 6.61 Views of the academy course are also apparent when viewed from the north of the ornamental pond, which is an important landscape feature within the historic parkland. The pond itself forms part of the application site and it is proposed to provide enhancements to it through landscaping and planting. However, just south of the pond it is proposed to raise the levels in order to provide a mounded feature some 8 metres above original ground levels. This again would appear wholly out of keeping with the historic course. It would also detract from views over the ornamental pond, and would adversely dominate the setting of the pond itself.
- 6.62 The proposed area of acid grassland in the north-western corner of the application site is also at odds with the historic parkland that sits to the north of it. Instead of the land sloping gently away in a southerly direction from an attractive existing pond in the north-western corner, thus following the natural topography of the land, it will instead rise by 3 to 4 metres above the level of the pond, having a negative impact on this landscape feature.
- 6.63 The introduction of a two-metre wide cart track throughout the academy course would also result in a somewhat utilitarian feature within the setting of the historic parkland, adversely affecting the landscape.
- 6.64 The changes to the design of the 9-hole academy course are no longer sympathetic to the historic parkland as they no longer reflect or respect

the gently undulating landscape of the latter. The county council's Landscape Officer has assessed this relationship, and her full detailed response is set out at paragraph 4.6 of this report. However, it is important to reiterate the conclusion of the Landscape Officer's report, which stated that:

"The proposed land raising and ground shaping results in a more complex topography and greater changes in level that are at odds with the historic parkland character. The rationale underpinning the landscape and mitigation proposals is not clear. The landscape strategy should be based upon a more detailed understanding of the historic designed parkland landscape, and seek to conserve and restore important landscape features wherever possible."

There is strong concern for the submitted landscape details that make little reference to the significant history of the site. Historic designed parkland landscapes are highly likely to include important aspects such as subtle changes in landform, and the careful arrangement of views and vistas, that should be acknowledged, restored and enhanced within the golf course design.

- 6.65 A further objection has been received from the Hertfordshire Gardens Trust, which succinctly states that "no meaningful justification is included in the documents to import large amounts of waste and thus change the Brownian landscape."
- 6.66 Consequently, the proposed re-contouring of the land has an adverse impact on the landscape and setting of the historic parkland, together with the wider setting of the general landscape within the vicinity of Dyrham Park. The proposed development will be visually intrusive and will have an adverse impact on local and residential amenity. The proposed development is therefore contrary to the aims of the NPPF and to Policy 4 of the Waste Core Strategy.

#### Highways issues

- 6.67 As previously stated, the proposed development would involve the importation of a further 75,230 cubic metres of waste material. The applicant quantifies this to equate to between 7,000 and 7,500 more lorry loads of waste to be imported. On this basis, it is estimated that this will take approximately 6 to 12 months to complete the importation alone.
- 6.68 It is further proposed to retain the existing number of HGV movements, consisting of 100 movements per day (50 in, 50 out). The site would be operational between the hours of 7.30am and 4.30pm, with a restriction in place between the hours of 7.30am and 9.30am so that there are no more than 4 deliveries per hour during this rush hour period.
- 6.69 During the original construction phase up until March 2014, considerable damage was caused to the carriageway of Galley Lane,

although the country club vehemently denied that HGVs accessing the site were responsible for this. Nevertheless, resurfacing of the road has taken place at the county council's expense.

- 6.70 Notwithstanding this, the Highway Authority has assessed this present proposal and makes no objection to the continued importation of waste.

Other considerations

- 6.71 Due to the already large scale importation of waste materials to the site without any significant construction of the academy golf course within Phase 2 of the development, officers have previously expressed concerns about the ability of the country club to guarantee that a golf course will be constructed on the land. The applicant has stated that should this application be refused, then the club would not have the finances to complete the originally consented scheme.
- 6.72 Therefore, on the face of it, should planning permission be refused there would be the possibility that the club would leave the land in its present unfinished and derelict condition. If that were to be the case, then the county council could consider that the importation of waste has amounted to no more than a landfilling operation and could take enforcement action to seek the removal of the waste materials. This in itself would be likely to be protracted and take a considerable amount of time before a resolution is achieved. Nevertheless, it is considered that the threat of the land being left in its present condition provides no justification for the granting of planning permission in this instance.
- 6.73 Furthermore, because of the lack of progress in terms of creating the academy course, officers have requested a form of guarantee that – should planning permission be granted – works would not just consist of further importation and stockpiling of waste without significant progress in terms of completion of the nine-hole course. The concern is that by allowing further importation without such a guarantee, this would potentially exacerbate the present situation. With this in mind, officers have suggested to the country club that it may wish to provide a financial bond that the county council could take control of if, for whatever reason, the construction of the golf course was not to be completed to the satisfaction of the local planning authority. Although somewhat unusual, such a bond had been provided by the developers of the adjacent Bridgedown Golf Course, now trading as The Shire (London). However, the applicant was not prepared to provide this. Instead, the applicant has suggested that Phase 2 of the site be sub-divided into three smaller phases, with work being required to be finished on the first of these before the development could progress into the next sub-phase. It is considered, however, that this offers little in the way of a guarantee as it is the intention to continue to import waste materials whilst construction works are taking place within the first sub-phase. Therefore, as before, officers are of the opinion that the continued importation without any tangible guarantee that the works

will ultimately be completed may result in a worse situation than presently exists.

## **7. Conclusion**

- 7.1 It is recommended that planning permission be refused for the following reasons.
- 7.2 The proposed development constitutes inappropriate development within the Green Belt, having an adverse impact on openness. The applicant has failed to demonstrate that the harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations and therefore, very special circumstances do not exist. The proposal is therefore contrary to the NPPF, Policies C1 and C4 of the Hertsmere Local Plan 2003, and Policy CS13 of the Hertsmere Local Plan Core Strategy 2013.
- 7.3 The proposal constitutes significant landraising, and would result in a landscape that is incongruous with its wider setting and that of the historic parkland in which it sits, being visually intrusive and adversely impacting upon amenity, contrary to the NPPF and the aims of Policy 4 of the Waste Core Strategy, as well as Policy CS14 of the Hertsmere Local Plan Core Strategy 2013.