



18 November 2023

Wandsworth Planning: planning@wandsworth.gov.uk

AELTC application to develop Wimbledon Park Golf Course

Wandsworth 2021/3609

Comments on Wandsworth Planning Officer's Report to Committee

These comments are intended for the Wandsworth Planning Committee and also for the GLA and if appropriate the Secretary of State when this application is referred to them, so please treat this paper as a further planning objection.

Comments in this paper refer to page numbers in the Public Pack Agenda for the Wandsworth Planning Committee meeting on 21 November 2023, Paper No 23-402 (the "Report").

For the Wimbledon Park Residents' Association, 56 Home Park Road, SW19 7HN.

Iain C. Simpson Chairman and C.B. Coombe, Planning and Environment Committee

1. Summary

- 1.1** The Report's recommendation of refusal of this application is welcome, and we would like to add some comments and observations. The application should be refused for these and many other reasons.
- 1.2** No Very Special Circumstances are made out, nor any justification offered for such an extensive intrusion into this heavily protected open space.
- 1.3** Harm to the Historic Landscape is inadequately assessed, and should match the finding of substantial harm to the MOL.
- 1.4** Only three "benefits" are noted as of "significance". In fact, they should be given little or no weight because they are ineffective, illusory or inappropriate.
- 1.5** The Report overlooks the emerging Merton Local Plan as a material consideration. The 1993 Covenants and the effect of the Supreme Court decision in Day v Shropshire are also relevant, and the right is reserved to make further representations about them.
- 1.6** Several further issues in the Report, as mentioned at section 6 below, suggest that the grounds for refusal should be strengthened.
- 1.7** The Report should note the environmental expertise of Dr D G Dawson who created, wrote, and led the policies for the GLA and whose papers have been submitted by this Association. The clear conclusion is that the applicants have overstated the claim to biodiversity and omitted to acknowledge a serious reduction in the Urban Greening Factor attributable.



2. The Future of the Championships and VSC pages 15, 16 & 114

2.1 The Report notes that the applicants have failed to provide any evidence of threats to the future of their tournament. The applicants' objective was, on their purchase of the golf course lease as recently as 2018, to bring the qualifying tournament from Roehampton, expected to require around 18 – 20 courts as used there now. No further clear purpose has been offered. However, these plans show considerable intensification of use on the development site, but no justification of the need for the extra courts, nor do they consider alternative locations for those additional courts.

2.2 The images on pages 15 and 16 also show that existing courts at the southern end of the main site would not be used. Without clear justification of the need for extra courts, this intensification on protected land should be refused. The Officer's Report for Merton showed even greater confusion over the true purpose of the application. Expansion of the AELTC complex was mentioned generally (1.2.3), but that Report explained that the golf course is to "host the Qualifying Event and improve the operation of the Championships" (1.3.4), going on to explain "The Qualifying Event will take place solely within the application site currently comprising Wimbledon Park Golf Course. However, during The Championships some of the courts within the parkland will be used as practice courts for the competitors, given the shortfall within the existing AELTC site" (1.4.3).

2.3 In light of this confusion in both Reports about the true nature of the proposals, it is not possible to assess the need for the development or the "Very Special Circumstances" which could justify it. We note and are glad that the Wandsworth planning Officer is not persuaded.

3. Harm to the Historic Landscape pages 74 – 77

3.1 The applicant's argument (5.15 third bullet point) that the "historic landscape of the RPG being read as slightly more developed than at present" is quite an understatement, as the triple landscape plan on page 74 makes very clear. At 5.14 the Report disagrees with the level of harm (ie "less than substantial") which the applicant claims for the stadium. This can only mean that the Report considers that the stadium would cause substantial harm. In view of its size and scale, its presence alone must dominate any assessment of the whole site.

3.2 Coupled with the Report's finding that the openness of the site for MOL purposes is significant, the conclusion (paragraph 5.19) that the proposals cause "less than substantial harm" cannot be justified. Indeed, it is illogical to attribute "substantial harm" to the stadium's effect on the openness of the MOL/Green Belt (paragraph 18.9), which is characterised by an open landscape, but not also to attribute an effect of "substantial harm" to the Grade II* listed historic park which is also characterised by an open landscape.

3.3 The Report does not mention any advice from Wandsworth's Conservation Officer. It should be noted that Merton's Conservation Officer advised that "substantial harm" would be caused by the proposals.



3.4 Further, the applicant makes a virtue of “improving” the existing golf course by removing trees, workshops and other features purposefully installed over the years. NPPF 196 states that “*where there is deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision*”. The Report does not mention NPPF 196 but appears to give weight to such “improvements”. On the contrary, they should be left out of account.

4. Benefits and Balance pages 95 – 114

The Report assesses only three benefits of the package proposed by the applicant as “significant”. They should be downgraded.

4.1 “**Permissive Park**” There are two problems with the weight (significance) being given to the “permissive park”.

4.1.1 Firstly, it is counted twice: Table A page 98, Heritage Balance and Table B page 104, Need v VSC. However, in Table C page 105, the Report advises that “double counting of an element is to be avoided”.

4.1.2 Secondly, while a section 106 agreement could be serviceable for such as one-off payments, its use for “permissive” ongoing rights and arrangements is not sound, and so no weight should be accorded to it. It would be unreliable and cannot safeguard the continuing use or operation of key benefits of the development. A section 106 agreement can be set aside by the applicants or any new owner very easily under s106A. The response of the applicants in relation to the 1993 covenants has been that “circumstances have changed”. The applicants also covenanted to “dedicate” a walkway around the lake, a formal arrangement which has specific legal implications of permanence. Instead, the applicants are trying to convert that formal promise into a permissive arrangement. The “permissive park” and many other ongoing promised benefits of access and facilities on the applicant’s land require permanent compliance. A section 106 is simply not suitable. The applicants are making no other proposals.

4.1.3 For both reasons, the significance of any such continuing proposed benefits should be very limited.

4.2 Funding of a **Conservation Management Plan** for the whole registered landscape is worthless.

4.2.1 As desirable as this may be, advocated by the Inspectors of Merton’s Local Plan and by Merton’s DRP, there is no certainty of any agreement to it by the other landowners, namely Merton and The Wimbledon Club. A “Memorandum of Understanding” has existed between the applicants and those bodies for several years, but no action at all has been taken. Without their combined formal agreement, which has not been evidenced and is not part of this application, this offer of funding is illusory and of no value at all.

4.2.2 A “Plan” without a strategy for implementation agreed between all landowners is a waste of money and effort and should be accorded no significance.

4.2.3 In addition, the Plan is proposed to overcome the “at risk” status of the entire Wimbledon Park Estate. As explained at 3.4 above, measures to overcome the deliberate neglect of or damage to a heritage asset should be ignored under NPPF 196.



4.3 Funding towards improvements to Existing Public Park. There are two problems with this. Until they are remedied, they must be given little or no weight.

4.3.1 There has been no consultation as to what is required. No Local Councillors, whether in Wandsworth or Merton, have been consulted, nor have the Friends of Wimbledon Park nor any of the Residents' Associations and Civic Societies.

4.3.2 Many of the improvements, involving apparently significant expenditure and construction, would require planning permission and a substantial, open-ended budget. Within this Grade II* listed park and Conservation Area, among trees with TPO's, any intervention will be expensive and time-consuming. That is not to say it would not be desirable. However, after two and half years of this planning application there is no certainty of a budget, plans or planning permission for the proposals. They appear to have been thought up at the last minute.

5. Material Considerations

One key Material Consideration has been overlooked; two others will, we believe, be found to be relevant and potentially the subject of litigation.

5.1 Merton Local Plan

At section 8 of our paper of 24 October 2023 commenting on Merton's Planning Officer's Report, which we also submitted to Wandsworth, we noted that the emerging Merton Local Plan had been given no weight, contrary to NPPF 48 and 49. It was launched six years ago, and two hearings held more than a year ago. We refer to our earlier paper for more detail, simply noting here that the Inspectors have declined to accept the allocation of the golf course for development and instead advocated a holistic approach to the entire "at risk" registered park and garden of the Wimbledon Park Estate. This application is premature and must justify refusal because:

NPPF 49. ... a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area."

The Wandsworth Report should also take note of this issue and refuse consent.

5.2 1993 Covenants pages 57 & 58

5.2.1 The right is reserved to revert to the issue of the 1993 restrictive covenants, as mentioned for example in this Association's representation of 15 February 2023.

5.2.2 This has many aspects but, for the moment, please note that *Satnam v SoS* (2019) EWHC 2631 cited at paragraph 1.15 of the Report does not support the conclusion drawn. In fact, the judge in that case put it this way (at paragraph 99):

"So, while I accept the lawfulness of the conclusion that the scheme was not deliverable as proposed, I do not accept that that was a material consideration which should have weighed in the balance against the grant of permission, at least on the reasoning of the Secretary of State."



- 5.2.3** *Satnam* turned on its facts, including the need for and obstacles to the housing development, the identification of alternative sites and the approach taken in the decision under review. That case referred to the definition of “deliverable” in the Glossary to the NPPF, which was concerned exclusively with housing development. The circumstances of Wimbledon Park and this application are quite different. While the Report suggests (1.16) that competing locations may be relevant, it does not critique the applicant’s failure to consider alternative locations for its purposes.
- 5.2.4** At 1.17 the Report mentions the “full extent of the proposed benefits”, but many of the proposed benefits, mentioned in the Heads of Terms for a s106 agreement would require planning permission which is far from a certainty. See also the weighting of benefits, mentioned above.

5.3 Day v Shropshire pages 59 & 60

The right is reserved to revert to the numerous legal arguments about *Day v Shropshire*: the Report’s comments about it are not agreed.

6. Further issues

- 6.1 Permanent Structures pages 14 & 20** In addition to the court “dressing” noted at page 14, two types of extensive, permanent seating on the applicant’s publicly inaccessible private land are shown at page 20, a further intrusion into the open parkland.
- 6.2 Permissive area calculation pages 24 & 25** The Report’s “permissive parkland” calculation correctly excludes the nature reserve, maintenance depot, car park and golf club house, reducing the calculation from 9.4ha to 7.49ha. Note that the maintenance depot area mentioned here is 3000sqm, whereas at paragraph 3.9, on page 62, it is shown as 4,557sqm. The calculation should exclude this additional area and the land from which the public is excluded by “estate railings” next to the maintenance depot, the further car park next to the club house and the lake reed beds. Taken together this is more than 1ha, so the reduced extent of the “permissive” area is calculated by architects McFarlane Latter as 6.3ha.
- 6.3 Height of Stadium page 26** The stadium is noted here as 49m high, which is its height AOD, but in fact it is 28m above ground level on the western side, and 24m above ground level on its eastern side. It is still very intrusive, as described in paragraphs 3.19 and 3.24.
- 6.4 Nature of use page 32** The table includes “Supporting facilities associated with outdoor sport and recreation”. Whereas the golf course buildings supported “outdoor sport and recreation”, a participative effort, the playing of tennis for reward as a spectator entertainment is not “outdoor sport and recreation”, so the loss of generally available facilities is markedly greater.
- 6.5 Representative Bodies pages 38 & 39** The Wimbledon Society is listed twice, but this Association (Wimbledon Park Residents’ Association) is not mentioned. This Association has submitted more than a dozen representations during the two plus years of this application.
- 6.6 Save Wimbledon Park Petition page 45** The Save Wimbledon Park petition numbers 15,500 (at Noon, 18 November 2023).
- 6.7 “Replacement Open Space” pages 61 & 62** The existing use is as a golf course, which was run by a club with a very large membership and the whole of which was available to any member of the public of Merton at any time. The change is to a private entertainment



complex, with potential for some permissive use of up to 7 courts for 6 weeks and permissive use of about 20% by area for 10 months. It does not provide “replacement open space”, so, we submit, this proposal is contrary to Policy LP54 of the Wandsworth Local Plan. For the same reasons, it is not agreed that NPPF 99 and LP53 are satisfied.

6.8 Design Review Panel pages 66 & 67 The Report refers to the Wandsworth Design Review Panel. It should be noted that the Merton DRP advised that “*the proposals definitely need to be part of a wider masterplan for the whole AELTC Championships, MOL and ‘at risk’ designated park*” (1.9.4 of the Merton Officer’s report). Each Borough has its own DRP, but we suggest Wandsworth should note the compelling comments of the Merton DRP, which align with the observations of the Merton Local Plan Inspectors.

7. Environmental considerations.

7.1 We refer to the numerous submissions made by this Association with the benefit of the expertise of Dr D G Dawson, most recently summarised in our representation of 9 November 2023. Thanks to Dr Dawson’s expert analysis the applicants’ claims of Urban Greening and Biodiversity gains have been proved to be substantially over-stated. The Report does not give sufficient or any weight to this analysis. For example, at paragraph 9.2 the Report understates the loss of trees, and does not justify the removal of any, contrary to policy LP56. For more detail, please refer to other representations.

7.2 Dr Dawson is an eminent professional applied environmental scientist, specialising in environmental methodologies. He worked on environment, biodiversity, ecology, and nature conservation for London government from 1983 until 2006 and he was joint Head of the Mayor of London’s Environment Group. He developed Sites of Importance for Nature Conservation and Areas of Deficiency in Access to Nature and led work on the Mayor’s Biodiversity Strategy for London, including the 2002 *Biodiversity Strategy: Connecting with London’s nature, The Mayor’s Biodiversity Strategy*. This sets out the policies, criteria and procedures for identifying nature conservation sites in London, open space and habitat surveys for London. It led to the supplementary planning guidance *Improving Londoners’ Access to Nature*.

7.3 Dr Dawson has lived in the area and taken a keen interest in Wimbledon Park flora and fauna for more than 35 years. We are most grateful to him for his kind contribution of his knowledge and expertise.

.....