**12. 17/2328/RSP - Part Retrospective: Construction of a 12 metre wide x 12 metre high safety netting behind the 14th green at Grims Dyke Golf Course, Oxhey Lane, Pinner, HA5 4AL for Mr Lee Curling**

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| Parish: Watford Rural | Ward: Carpenders Park |
| Expiry Statutory Period: 4 January 2018 | Officer: Matthew Roberts |
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| Recommendation: That Planning Permission is Refused.  |
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| Reason for consideration by the Committee: The application has been called-in at the discretion of the Director of Community & Environmental Services. |

**1.** **Relevant Planning and Enforcement History within Three Rivers:**

1.1 17/0222/COMP – Enforcement Enquiry: Erection of new enclosure. Pending consideration.

**2.** **Detailed Description of Application Site:**

2.1 The application site relates to a rectangular parcel of land within the south western corner of the Grims Dyke Golf Course, an 18 hole golf course located in-between Carpenders Park and Harrow.

2.2 Grims Dyke Golf Course is predominately located within the London Borough of Harrow, accessed via Oxhey Lane; however, parts of the course are located within Three Rivers.

2.3 The application site is positioned close to the boundary of The Hollies, a detached dwelling fronting Oxhey Lane which abuts the golf course to the north.

2.4 With regards to policy designations the application site falls within the Metropolitan Green Belt and Flood Zone 1.

**3.** **Detailed Description of Proposed Development:**

3.1 This application seeks part retrospective planning permission for the construction of a 12m wide by 12m high safety netting behind the 14th green.

3.2 The safety netting will be supported by two green painted posts which would slot into the brackets which have already been fixed into the ground on site, no further works have occurred. The safety netting would be black in colour with the combined structure measuring approximately 0.3m in depth.

3.3 The structure would be set in from the boundary with The Hollies by approximately 3.8 to 4m and set in from the western boundary of the golf course by 4.7m.

3.4 The application was submitted with a Planning Statement, Biodiversity Checklist and a CIL Form.

**4.** **Consultation:**

4.1 Watford Rural Parish Council: No comments received. Any comments received will be verbally updated at Committee.

4.2 London Borough of Harrow: No comments received. Any comments received will be verbally updated at Committee.

4.3 Environment Agency: No comments received. Any comments received will be verbally updated at Committee.

4.4 Herts Footpath Section: No comments received. Any comments received will be verbally updated at Committee.

4.5 British Pipeline Agency: [No objection]

*“Thank you for your correspondence enclosing details of your proposals as listed above.*

*We are not aware that any of BPA Pipelines apparatus, falls within the vicinity of the above noted location.*

*However, if the location of your work should change, please complete a new Linesearch enquiry immediately, using* [*www.linesearch.org*](http://www.linesearch.org). *Whilst we try to ensure the information we provide is accurate, the information is provided without prejudice and we accept no liability for claims arising from any inaccuracy, omissions or errors contained herein.”*

4.6 National Grid: [No objection]

**5.** **Neighbour Consultation:**

5.1 No. consulted: 6

 No. responses: 4

5.2 Site Notice: Posted 15 November 2017; Expired on 6 December 2017 (further consultations).

5.2.1 Press Notice: Not applicable.

5.3 Summary of responses:

* Works commenced without planning permission
* Application form states that works have not commenced
* No Impact Assessment Report has been provided
* Harrow and Three Rivers have refused fencing on Oxhey Lane
* Incorrect planning process has been followed, identical application required to London Borough of Harrow
* Critically object as it will be an eyesore
* Over powering and excessive height (taller than the adjacent dwelling)
* Poor justification to its purpose
* Area should be planted with bushes
* Inappropriate development in the Green Belt with no strong justification
* Poor design and excessive
* 14th hole has been re-located to address any issues

5.3.1 Comments were also received from a Harrow Weald Ward Councillor objecting to the application on grounds which have been highlighted above.

5.3.2 An overview of the enforcement case and the planning process to date is provided at Section 8.1 and covers points raised by objectors.

**6.** **Reason for Delay:**

6.1 Committee cycle.

**7.** **Relevant Local Planning Policies:**

7.1 National Planning Policy Framework (NPPF):

7.1.1 On 27 March 2012, the framework of government guidance in the form of Planning Policy Statements and Planning Policy Guidance Notes was replaced by the National Planning Policy Framework (NPPF). The adopted policies of Three Rivers District Council reflect the content of the NPPF.

7.2 The Three Rivers Local Plan Core Strategy:

7.2.1 The Three Rivers Local Plan is currently being drawn up. The Core Strategy was adopted on 17 October 2011 after the Inspector concluded that it was sound following Examination in Public which took place in June 2011. Relevant policies of the adopted Core Strategy include: CP1, CP9, CP11 and CP12.

7.3 Development Management Policies LDD:

7.3.1 The Development Management Policies Local Development Document (LDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies of the adopted Development Management Policies LDD include: DM2 and DM8.

7.4 Other:

7.4.1 The following Acts and legislation are also relevant: The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 Habitat Regulations 1994, the Localism Act 2011 and the Growth and Infrastructure Act 2013.

7.4.2 Online Planning Practice Guidance.

**8.** **Analysis**

8.1 Overview:

8.1.1 Following a report to the Council concerning the erection of a new enclosure at the golf course an enforcement investigation was opened under reference 17/0222/COMP. The works to erect a new safety net ceased following correspondence with the Council and the current planning application was validated soon after. Prior to the validation of the current application the extent of the “application site” (area enclosed in red) included the entire golf course, thereby encompassing land within the London Borough of Harrow. However, it was determined that the best course of action was to amend the extent of the application site so it related solely to the area of works rather than the entire site and to formally consult Harrow during the application process. The location plan submitted with the current submission shows an “application site” which falls **solely** within Three Rivers and the London Borough of Harrow has been duly consulted along with residents within the said borough which sit adjacent to the site. As such there is no requirement for an application to be made to London Borough of Harrow.

8.1.2 As it stands, the only works which have commenced include the digging of foundations and supporting brackets for the proposed structure. No above ground works have occurred at date. Nevertheless as associated works have commenced this application is therefore part retrospective.

8.1.3 During the application process the Department for Communities and Local Government have requested that the Local Planning Authority does not issue a formal decision following a determination to grant or refuse, until the Secretary of State has decided whether or not to call in the application. As such, members will be updated following their recommendation whether the application has been called in by the SOS or not.

8.1.4 The following sections will assess the planning merits of the structure when applied against national and local planning policy.

8.2 Impact on the Metropolitan Green Belt:

8.2.1 The application site is wholly located within the Metropolitan Green Belt with the area characterised by open countryside and linear forms of residential development along Oxhey Lane.

8.2.2 Policy CP11 of the Core Strategy (adopted October 2011) sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purposes of including land within it. Policy CP11 is supported by Policy DM2 of the Development Management Policies LDD (adopted July 2013).

8.2.3 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.

8.2.4 The National Planning Policy Framework advises that Local Planning Authorities should regard construction of new buildings as inappropriate in the Green Belt. Exceptions to this are set out at Paragraph 89 of the National Planning Policy Framework as:

* Buildings for agriculture and forestry;
* Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
* The extension or alteration of a building provided that it does not result in disproportionate additions over and above the original building;
* The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
* Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
* Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

8.2.5 Paragraph 90 of the NPPF advises that certain other forms of development are also not inappropriate in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:

* Mineral extraction;
* Engineering operations;
* Local transport infrastructure which can demonstrate a requirement for a Green Belt location;
* The re-use of buildings provided that the buildings are of a permanent and substantial construction; and
* Development brought forward under a Community Right to Build Order.

8.2.6 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The National Planning Policy Framework states that when considering proposals, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

8.2.7 When applying the meaning of building as set out within the Town and Country Planning Act it states that “building” is defined as including “any structure or erection, and any part of a building”. As such, the erection of a 12m high safety net would be classed as a building for the purposes of the interpretation of paragraphs 89 and 90 of the NPFF.

8.2.8 Whilst the provision of appropriate facilities for outdoor sport and recreation is not inappropriate development in the Green Belt, in this instance the structure’s purpose is not intrinsically linked to outdoor sport or recreation but is simply to prevent wayward/miss-hit golf balls entering into the most immediate property to the south, a residential dwelling known as The Hollies. Furthermore, given the golf course is well established and has been used as a golf course without the proposed structure in place, it does not appear to represent “an appropriate facility for outdoor sport and recreation”. Therefore, having regard to the exception lists within the NPPF, the erection of the structure would represent inappropriate development which, by definition, would cause harm to the openness of the Green Belt.

8.2.9 In addition to development’s inappropriateness the question of visual impact is implicitly part of the concept of openness of the Green Belt. Accordingly, whilst it is appreciated that the structure would predominately comprise of netting which would allow for views into the golf course, its erection by virtue of its height and width would appear conspicuous from neighbouring outlook but would be only partially visible from Oxhey Lane given a degree of tree cover and the distances involved. As such, it is considered that the proposal would result in additional harm to openness but only on a localised basis.

8.2.10 As the proposed development would be inappropriate by definition and would result in harm to openness, it is therefore for the applicant to demonstrate very special circumstances to outweigh the identified harm. During the application process the applicant submitted a Planning Statement which sets out that various measures/improvements have been proposed over the last couple of years to resolve the issue of golf balls entering The Hollies. The statement suggests that a key agreement for the sale of part of the golf club adjacent to the drive/entrance of The Hollies was on the understanding that the owner would erect fencing of a sufficient nature to avoid the risk of stray golf balls. A 2.4-2.6m fence was erected and currently acts as the only physical barrier with the 14th hole following the removal of vegetation. The supporting statement also sets out a number of improvements which the golf club have or are currently undertaking:

* Removal of two bunkers to the 14th hole close to the green
* Introduction of trees to ensure a small dog leg is created to ensure any approach shot to the green is away from the line of the house
* Remodelled the two remaining bunkers to ensure only a short flap shot is possible and again avoid the miss-hit shot travelling towards the garden or house
* Reinstate the hedgerow and shrubbery along the boundary to act both as a visual barrier but also as a buffer zone

8.2.11 It is clear that the golf club have taken positive steps to prevent the intrusion of golf balls into the neighbouring property, however, there is no firm evidence as to why the structure is ultimately required given the recent modifications to the course. For example, neither the supporting statement nor the objection from the immediate neighbour confirms that golf balls have indeed entered the neighbouring property since the remodelling of the 14th hole. Prior to the remodelling works (which were evident on the site visit in November), the supporting statement refers to the “very occasional golf ball” entering the property which was approved by the London Borough of Harrow in 2006. It is also noted that the green has been made larger; although there appears scope to re-site the green and enhance soft landscaping measures within the space between the green and the boundary with The Hollies.

8.2.12 It is fully appreciated that the proposed structure is solely intended to prevent causing damage to the neighbouring property and potential health and safety issues for the adjacent residents when utilising their rear garden. There is also a degree of sympathy with the golf course in its efforts to minimise the issue and to prevent possible legal action if golf balls do unintentionally enter the neighbouring property. However based on the recent remodelling of the 14th hole, the ability to make other improvements to the hole in respect of re-siting the green and planting of heavy standard trees and the evidence to date which is not conclusive, it is the opinion of the Local Planning Authority that the harm to the Green Belt by way of inappropriateness and harm to openness has not been outweighed by very special circumstances. The development therefore fails to comply with Policy CP11 of the Core Strategy, Policy DM2 of the Development Management Polices LDD and the NPPF.

8.3 Impact on landscape character:

8.3.1 Policy CP12 of the Core Strategy (adopted October 2011) states that in seeking a high standard of design, the Council will expect all development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area. Policy DM7 also states that the Council will require proposals to make a positive contribution to the surrounding landscape.

8.3.2 The proposed structure would be positioned on the edge of the golf course and would be set in from the Oxhey Lane frontage by over 30m; however, it would be partially glimpsed from public vantage points between The Hollies and the golf course. Whilst the structure would appear high, it is not an uncommon form of development on a golf course and given its design with the use of netting in a sympathetic colour, it would not appear incongruous within its context or visually prominent within the surrounding landscape.

8.4 Impact on neighbouring amenity:

8.4.1 Policy DM1 and Appendix 2 of the Development Management Polices LDD seek to ensure that development does not result in the loss of residential amenity.

8.4.2 Whilst it is acknowledged that the structure would be high at 12m, given the separation distance between the neighbouring dwelling and the netting and the fact the structure would be to the north, it is not considered that any significant loss of light would result.

8.4.3 In terms of visual impact, as previously mentioned above the structure would be conspicuous from neighbouring outlook, especially from the flank windows; however, by virtue of its design and materials used, it is not considered that it would result in an overbearing and visually dominating form of development which would adversely affect the living conditions currently enjoyed by the adjacent residents.

8.5 Landscaping and Biodiversity

8.5.1 There are no protected trees within the application site or trees of amenity value which would be harmed by the development.

8.5.2 With regards to biodiversity, Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

8.5.3 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies LDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application.

8.5.4 Given the site circumstances and nature of the development, it is not considered that there would be any significant impact on any protected species or wildlife, nor would the development compromise the integrity of the Green Infrastructure, therefore complying with Polices CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

8.6 Flood Risk:

8.6.1 The application site falls within Food Zone 1; however, due to the nature of development it is not expected to result in any adverse risk to flooding.

8.7 Conclusion:

8.7.1 In conclusion, the proposal would constitute inappropriate development, which, by definition is harmful to the Metropolitan Green Belt. When considering the scale of the proposed structure the development would also result in harm to the openness of the Green Belt. Any form of inappropriate development should not be approved expect in very special circumstances. In this instance, it is acknowledged that the purpose of the structure is to avoid wayward/miss-hit golf balls entering into The Hollies and to prevent possible legal action if any damage was to arise. However, the golf course has already undertaken improvements to the course which seek to avoid wayward shots entering the said neighbouring property. Additionally, the LPA consider that further modelling of the hole could reasonably occur as well as appropriately placed planting which would potentially avoid the requirement of the 12m high structure. Nevertheless, as it stands, due to recent changes to the 14th hole, there is no substantive evidence which would suggest that the structure is currently required. Whilst the structure would not have a detrimental impact on neighbouring amenity or to the local context, such factors do not collectively outweigh the harm to the Green Belt. As a result, as it stands, no very special circumstances exist which would outweigh the identified harm to the Metropolitan Green Belt. Consequently, the proposal fails to comply with Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the National Planning Policy Framework (NPPF).

**9.** **Recommendation:**

 9.1 That PLANNING PERMISSION BE REFUSED for the following reason: -

 R1: The proposed 12m high safety netting would constitute inappropriate development in the Metropolitan Green Belt, which, by definition, is harmful. The harm to the Metropolitan Green Belt is exacerbated by reason of its height, which would harm the openness of the Metropolitan Green Belt. No very special circumstances have been demonstrated to outweigh the inappropriateness of the development and other harm to the Green Belt. The proposal therefore fails to comply with Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the National Planning Policy Framework (NPPF).

9.2 **Informative**

 I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in paragraph 188 of the NPPF. The applicant did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.