

Gravesham Borough Council

Compulsory Acquisition Hearing 3 (17 October 2023) – (CAH3) on Individual Objections

Examining Authority’s Agenda Item / Question	Response	References
1. Individual Site-Specific Representations		
For each Affected Person, the ExA will ask:		
<p>i. For an outline of the current scope of objections, taking account of any progress in negotiations with the Applicant</p>	<p>The applicant is proposing to take land at the rear of the Cascades Leisure site owned by Gravesham Borough Council for works associated with the project, currently occupied by a nine-hole course and its landscaped margin. This is run under a lease from the Council by Swing Rite Ltd which covers the bulk of the area, but the outer landscaping strip is informal public open space. The current Swing Rite lease runs to 2036. The area is not fenced off with access being across the playing pitches at the rear of the Leisure Centre and not controlled in any way.</p> <p>The parcels of land in question owned freehold by the Council are 13-09 and 13-03 (see Sheet 13 of REP5-007). 13-09 is an area of open land which comprises a nine-hole golf course. It is not currently in active use, but the facility exists, and 13-03 – which is a vegetated U-shaped margin around 13-09 – which provides a walking route on foot, which is accessible as a recreational route for walks around the nine-hole golf course, and which can be accessed from within the Cascades Leisure Centre.</p> <p>The applicant has suggested (oLEMP) that some land from SVGC site, just south of Cascades, be used to replace the golf course in what would effectively be a land swap. The practical issue is that from Swing Rite’s point of view as the site</p>	

	<p>operator it would be divorced from the driving range, which they also manage, and therefore difficult to manage. The proposals are illustrated in the oLEMP [REP4-140] in plate 5.12.</p> <p>In broad terms the Council would welcome the principle of the land swap, but it would have to be in the context of producing a solution that works in managerial/practical terms. The Applicant's current proposals do not allow for adequate supervision of the new golf course from Swing Rite's centre of operations at the driving range. This is a concern both in terms of regulating those playing on the course (ensuring that they pay to play) and in terms of safeguarding the greens and other parts of the course from damage, whether by trespass, dog-fouling, or forms of anti-social behaviour. Hence the options for moving the various facilities round (driving range, nine-hole course, and playing fields) which have been presented to the Applicant. Simply 'swapping' the locations of the sports pitches and the new golf course at SVGC would not suffice because the sports pitches currently occupy a smaller area of land than the existing course.</p> <p>There have been discussions between the parties about a solution that would work, and the current position is set out in the Council's response to Action Point No.1 following CAH3. A final position will be set out at D7 as per Action Point No.2.</p>	
<p>ii. Whether CA and or TP powers (or both) are objected to and (with reference to the statutory tests and applicable guidance) why?</p>	<p>The Council's starting point is that what the applicant has proposed in the oLEMP is not acceptable as a suitable replacement facility for what is lost and therefore that is not something which should find favour with the Examining Authority in its recommendations, having regard to, particularly, the policy tests which are set out in paragraphs</p>	

5.166 and 5.174 of NPSNN, and that consequently, a compulsory acquisition which – to bring about that unsatisfactory state of affairs – is not something that the ExA should endorse. The Council does not see, in terms of the test in section 122(3) of PA 2008, that there is a compelling case in the public interest to bring about that unsatisfactory result.

Mr Hickmott explained the importance of the golf facilities and playing pitches at this particular location.

In terms of the National Networks Policy Statement, guidance on impacts on open space and recreational provision is contained in paragraphs 5.166, 5.174 and 5.181. To meet the policy tests, the Council is suggesting that what needs to happen is that the replacement facility for the loss of the nine-hole course needs to not only complement the driving range but also be capable of operation in conjunction with it, and so that is likely to require the use of some of the land which is closer to the driving range, if the driving range remains where it is.

The Council remains open to discussing with the applicant whether there is a way in which, spatially, it is possible to better manage the recreational resources that are available in this locality, so as to provide a solution which delivers a replacement nine-hole golf course, which is capable of being managed in conjunction with a driving range either in its existing location or itself somewhere else, and if, in that process, the sports pitches are themselves to be relocated, they also need to be relocated in a way which is functional and operational to provide an equivalent provision.

<p>iii. What relief is sought?</p>	<p>In the absence of an agreement which provides an equivalent, as mentioned above, the Council considers that the compulsory acquisition of the land is not justified in terms of section 122.</p> <p>The only relief which the Council considers could be provide by the ExA, save from a recommendation that the Council's land be removed from compulsory acquisition (which would presumably be fatal to the scheme) or a recommendation that the DCO not be made, would be a new article in the Order, which would be structured in similar terms to article 40 (special category land). Suggested drafting can be worked up for deadline 7, if no agreement seems achievable by then.</p>	
<p>iv. Whether there are any issues of hardship or requests for non-statutory relief, and if so, the basis for these and any practice precedents</p>	<p>Not relevant</p>	
<p>v. Where relevant, whether the Human Rights Act (ECHR) rights and or the Public Sector Equalities Duty (PSED) are engaged and what considerations emerge from this?</p>	<p>Not relevant</p>	