

<b>Date of Meeting</b>	22 <sup>nd</sup> July 2010
<b>Application Number</b>	E/10/0516/FUL
<b>Site Address</b>	Land at Berhills Lane, Sells Green, Seend, Wilts SN12 6RR
<b>Proposal</b>	Creation of family golf centre
<b>Applicant</b>	Mr John Hussey
<b>Town/Parish Council</b>	SEEND
<b>Grid Ref</b>	395256 162223
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Rob Parker

### **Reason for the application being considered by Committee**

The application is before the Committee at the request of the local member, Cllr Seed.

#### **1. Purpose of Report**

To consider the recommendation that the application be refused.

#### **2. Report Summary**

The main issues to be considered in this case are as follows:

- Principle of development
- Impact upon highway safety
- Impact upon visual amenity and landscape character
- Impact upon protected species
- Impact upon neighbour amenity

The application has generated objections from Seend and Bromham Parish Councils; caveated support from Rowde Parish Council and 18 letters of objection from the public, with a further one in support.,

#### **3. Site Description**

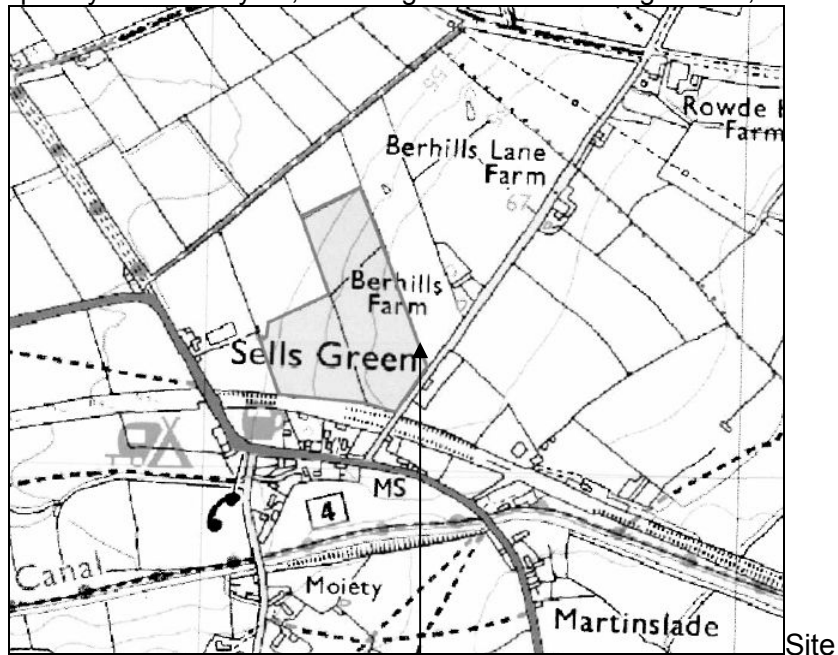
The application site comprises a 7.46 hectare parcel of agricultural land adjoining Berhills Lane in Sells Green. Berhills Lane forms part of the 'C' classified road which links the A342 Devizes – Chippenham road with the A365 Devizes – Melksham road. On entering Berhills Lane from the direction of Sells Green the site lies on the left hand side approximately 150m from the junction, opposite the dwelling known as 'Equestria'.

#### **4. Planning History**

E/09/0640/FUL – Creation of family golf centre, planning permission refused under officer delegated powers on 17<sup>th</sup> August 2009 for the following reason:

“The C242 (Berhills Lane) would, by reason of its restricted width and poor

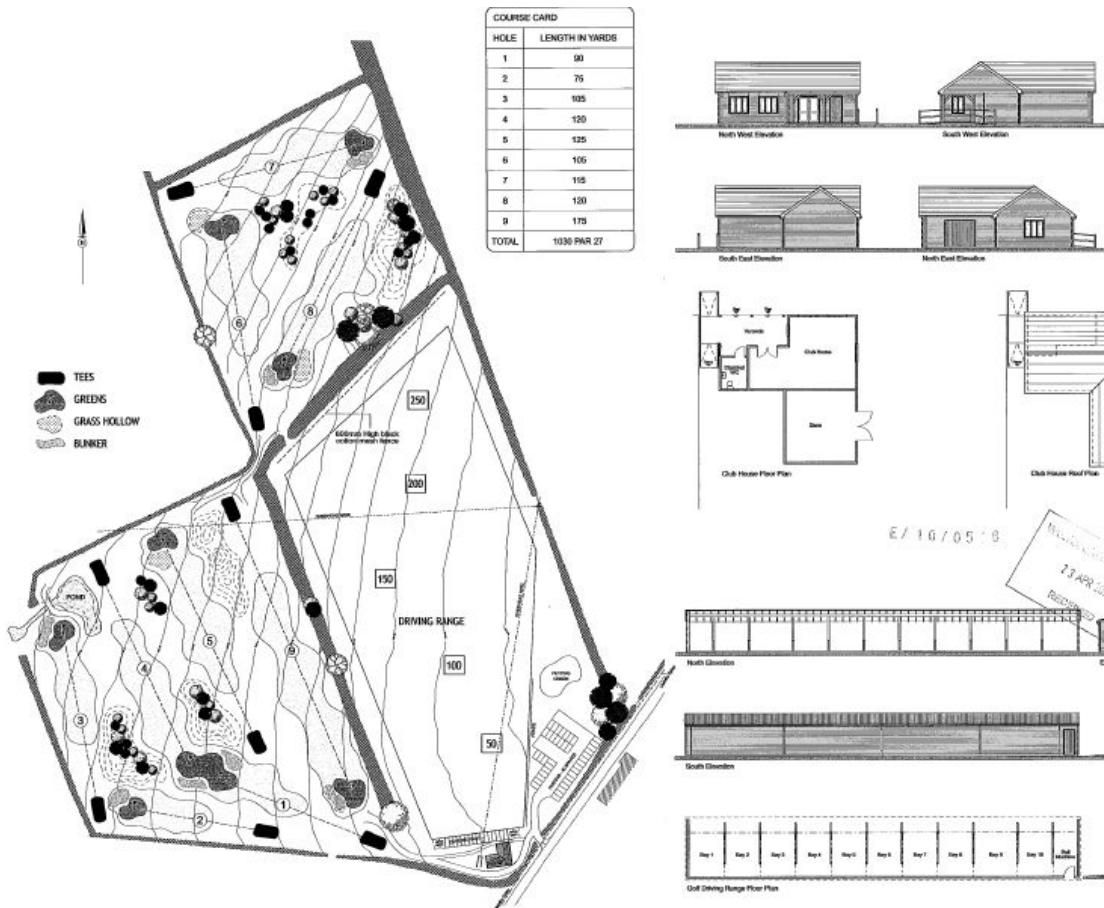
alignment to the north and sub-standard junction with A365 Bath Road to the south, be unsuitable to serve as a means of access to the proposed development. The proposal is therefore contrary to Policy PD1 of the Kennet Local Plan 2011, criterion B(4) of which requires all development proposals to adequately address layout, servicing and access arrangements, and road safety.”



**Site Location Plan**

### **5. The Proposal**

The proposal is to create a family golf centre, to include a driving range. The scheme will comprise a 9 hole par 3 golf course, a club house and 10 bay driving range building. There would also be a 40 space car park with a new vehicular access onto Berhills Lane (in the position of an existing field gate).



## 6. Planning Policy

Wiltshire & Swindon Structure plan – policy RLT1 relates to the provision of sport and recreational facilities.

Kennet Local Plan - policies PD1, NR6 & NR7 of the Kennet Local Plan 2011 are relevant to the assessment of this application. Supplementary Planning Guidance contained in the Kennet Landscape Conservation Strategy is a material consideration. It is also relevant to consider Government guidance contained in PPG17: 'Planning for Open Space, Sport and Recreation'.

## 7. Consultations

**Bromham Parish Council:** Objects under Policy PD1 (B4) with concerns about the increased volume of traffic on this unclassified road (Officer note: Berhills Lane is actually a classified road - the C242).

**Environment Agency:** No objection subject to appropriate conditions and informatives.

**Rowde Parish Council:** Supports the proposal for a family golf course that would provide a much needed facility for local villages. However, the parish council recommends that the developers are required to review their application in respect of road safety issues.

Seend Parish Council: The views of Seend Parish Council remain the same as when comments were submitted on E/09/0640/FUL in July 2009 (these are reproduced below for information). There is strong opposition to this development from the local residents. The parish council agrees with the comments of Bromham Parish Council, and object under Policy PD1 (B4), and with the comments of the Council's Highways Officer who recommends that the application be refused because the road in question (C242) is unsuitable for the increase in traffic resulting from this development.

Seend Parish Council's comments on E/09/0640/FUL:

1. The development will undoubtedly increase traffic along Hawk Street, Durlitt Road and Berhills Lane. The lane is a 'C' class road, but experiences high volumes of traffic. The road is already used as a 'rat run' by commuters, cutting through to the A342 Calne/Chippenham road. The road has a 7.5 tonne weight restriction. The road is very narrow at the proposed entrance to the site; the road is also frequently used by horse riders. Planning permission has already been refused for a commercial stable along the lane, because of the increase in traffic. The present speed limit of 60mph would need to be significantly reduced, and pedestrian access improved by means of a footpath. There could be a change in the level of traffic using the A365 if a weight limit is introduced on the A361 through Seend. The junction of Berhills Lane with the A365 has poor visibility westwards.
2. There are already several golf amenities within a 15 mile radius; the application has been prepared selectively and does not mention Christie Miller Centre in Melksham, Witley driving range, the Driving Academy at Yatton Keynell or the driving range at Wingfield.
3. Concerns were expressed that this development could be a means of creating income from tipping soil and waste from building sites - a common way of avoiding land fill tax.
4. There is little mention of the impact of lighting in the plan. Residents close to Yatton Keynell range have complained about the level of lighting.
5. The plan shows only one lavatory. However there are parking spaces for 43 cars and a cafeteria on the site.
6. Doubts have been expressed as to the commercial viability of the plan.
7. The ecological survey was undertaken over a one day period, and the parish council would like to see a full wildlife survey undertaken by Wiltshire Wildlife Trust to ascertain the species of animals, insects, reptiles and plants on the site.

It is clear from the correspondence and verbal comments at the parish council meeting that the local residents are vehemently opposed to this application, and fear it will have a detrimental effect on the amenity of their area.

Comments on amended plans:

The parish council is glad to see that floodlighting has been removed from the scheme. However, the main area of concern is "Highways". This includes lack of pedestrian footpaths and the speed limit through Sells Green and along Berhills Lane. The proposed weight restriction on the A361 through Seend, which would see vehicles over 7.5 tonnes being diverted along the A365, increasing the

volume of heavy traffic passing through Sells Green. The width of Berhills Lane at the proposed entrance to the golf centre. The parish council are still very concerned at the overall impact on the Sells Green and Berhills Lane areas of this proposed scheme.

Wessex Water: The proposal is not located within a Wessex Water sewered area. Foul drainage is proposed using a septic tank and surface water drainage via soakaways. The Council should satisfy itself that these arrangements are adequate. Mains water supply is available.

Wiltshire Council Highways: The previous concerns about the junction of Berhills Lane with the A365 have now been addressed with an agreed alteration to this junction. The concerns about additional traffic using the highway network, in particular Durlott Road and Hawk Street, to the north of the site still remain. This is twofold - i.e. during the construction stage and during final use. At the construction stage it may be possible to control the routing of the lorries by means of a legal agreement, but no way has been identified to prevent traffic for the completed golf centre from using those roads. The Highway Authority's objection is therefore maintained and a refusal of planning permission is recommended for the following reason:

“Traffic generated from this proposal would use a road (C242) which, by virtue of its inadequate width and alignment, is considered unsuitable to accommodate the increase in traffic resulting from this development.”

Wiltshire Fire & Rescue Service: Standard informative letter regarding fire safety legislation, fire appliance/firefighting access and water supplies for firefighting.

## **8. Publicity**

The application has been publicised by advertisement in the local newspaper and by site notice. Letters have also been sent to the owner/occupiers of nearby residential properties.

One letter of support has been received in response to this consultation exercise. In addition, eighteen representations of objection have been received raising the following concerns:

- a) The proposal will be detrimental to highway safety on Berhills Lane. The C242 is used as a rat-run during peak hours. There are no footways, much of the road is narrow single lane and traffic travels far too quickly. There are already conflicts between horse riders and motor vehicles, resulting in various accidents. The proposal will exacerbate the problem by generating additional traffic, and also give rise to danger for pedestrians and cyclists. Berhills Lane is narrow at the position of the new access for the golf course and the lack of footways will make it dangerous for golfers accessing the facility on foot from the local bus stop on the A365 and the caravan park at Sells Green. Accident figures supplied by the applicant are misleading as the recorded statistics only include injury accidents and fatalities; there are many more unrecorded accidents. One objector disputes the accuracy of the submitted data on vehicle flows.
- b) The proposal will give rise to additional traffic volumes in nearby Spout Lane which is already used as a rat-run.
- c) The site lies in an unsustainable location. The majority of customers will visit the site by private motor car and not by public transport.

- d) There is no need for an additional golf facility in this area; the site is surrounded by existing facilities, most of them excellent but struggling to remain viable in the present economic climate. The applicant identifies a catchment area of 10 miles; customers would therefore be passing existing golf facilities to reach the Berhills Lane site. Attention is also drawn to a similar facility in Bradford on Avon which is owned by the applicant; the objectors believe that this site is not economically viable, hence the reason why planning permission has recently been sought for housing development.
- e) The proposed golf facility will not be economically viable in this location. Concern is expressed that the applicant's real intention is to use this development as a means of disposing of topsoil and/or waste which would otherwise go to landfill. The applicant stands to make a considerable amount of money from this activity; there would be no need to open the golf course afterwards.
- f) The proposal may be the first step towards gaining planning permission for housing development when the golf course fails to prove profitable.
- g) The proposal is inappropriate development in the countryside and would be harmful to the character and appearance of this primarily agricultural / equestrian area. The alterations required to create the new access (and its associated visibility splays) will be wholly out of character with the natural environs of the lane.
- h) The proposal will give rise to a need for lighting which will be detrimental to the amenities of the countryside and local residents.
- i) The application is contrary to the Development Plan and does not comply with government guidance contained in PPG17.
- j) The proposal will be harmful to wildlife. Grass snakes and adders have been spotted in the vicinity and the ponds on site may be suitable for amphibians. There are many small mammals, insects and butterflies which are impossible to survey on the basis of one site visit. Retention of the existing badger sett is unrealistic; badgers are unlikely to be tolerated on a golf course and therefore they are likely to be excluded once the facility is operational. Deer graze in the fields most days and foxes, sparrow hawks and a barn owl have all been spotted.
- k) There may be existing drainage pipes under the land and the loss of these as a result of changes in topography may affect local drainage. A proper survey is required.
- l) The proposal would give rise to noise nuisance for the occupiers of Equestria, the dwelling immediately opposite the site on Berhills Lane. The objector is concerned about people shouting "good night" to one another and slamming car doors so close to his property, with only a hedge and narrow grass verge as a barrier.
- m) The proposal would also give rise to noise nuisance to other properties from people on the site and the 'crack' of golf balls. Golfers would be able to overlook the garden to 18 Sells Green from the raised tees.
- n) Stray golf balls will present a danger for livestock and farm machinery.

- o) The 800 lorry movements associated with the importation of spoil will result in noise, dust, vibration and inconvenience to local residents, and will also cause damage to local properties, roads and hedgerows. Furthermore, they will deposit mud on the carriageway, to the detriment of highway safety.
- p) The proposal will cause litter nuisance.
- q) The facility will encourage crime and antisocial behaviour; the driving bays in particular could provide good shelter for nefarious night activities.
- r) Timber is not a suitable construction material for the proposed buildings.
- s) The applicant does not own the hedges on the north and west site boundaries.
- t) Stray golf balls may harm livestock, farm machinery or agricultural workers in adjacent fields.
- u) Golfers trying to retrieve stray golf balls could damage crops in surrounding fields and any gaps made by golfers could lead to livestock escaping onto the golf course and subsequently onto the road.

## **9. Planning Considerations**

### **Background**

This is a proposal for a family golf centre comprising a 9 hole par 3 golf course and a driving range. The current application is essentially a resubmission of E/09/0640/FUL which was refused under officer delegated powers. The application is identical to the previous submission, except insofar as junction improvements are being proposed at the junction of Berhills with the A365 to address the refusal reason. The Transport Statement has also been updated.

### **Principle of Development**

There are no saved policies in the Kennet Local Plan 2011 relating to new outdoor sport and recreation facilities in the countryside. Government guidance contained in PPG17 is therefore the most relevant policy consideration. This states that:

“In rural areas those sports and recreational facilities which are likely to attract significant numbers of participants or spectators should be located in, or on the edge of, country towns. Smaller scale facilities will be acceptable where they are located in, or adjacent to villages to meet the needs of the local community. Developments will require special justification if they are to be located in open countryside ...”

Officers have considered whether the proposal complies with the above government guidance. There may be grounds to suggest that the proposal runs contrary to the guidance on the basis that the site is located in the countryside, well away from the nearby towns of Devizes, Chippenham, Melksham and Trowbridge. It would also be possible to argue that the facility would not fall within the “smaller scale facilities” category because it would be serving more than the local community.

Advice was sought from the Council’s Spatial Planning Team on the interpretation of PPG17, in connection with the first planning application for the site (E/09/0640/FUL). The advice given was that interpretation of PPG17 is all a matter of scale. The site does not lie immediately on the edge of an existing town but it is conveniently located within a short drive of several towns and within walking distance of the Sells Green

Caravan Site and the Kennet & Avon Canal. There are also public transport links. Previous studies have identified a shortage of pay and play golf courses in the former Kennet district (paragraph 7.49 of the Kennet Local Plan 2011 refers) and therefore this should be given some weight in the assessment of the current proposal. A large proportion of the Wiltshire East area is covered by AONB & Special Landscape Area designations and therefore this site is perhaps the one of the least sensitive in landscape terms.

On the basis of the advice received from the Spatial Planning Team it would be difficult to argue that the principle of a golf course and driving range in this location would be unacceptable.

### **Impact upon Highway Safety**

The Council's Highway Officer objected to the previous planning application (E/09/0640/FUL) on the basis that the C242 (Berhills Lane), by reason of its restricted width and poor alignment to the north and sub-standard junction with A365 Bath Road to the south, is unsuitable to serve as a means of access to the proposed development. Since that decision the applicant has agreed with the Highway Officer a scheme of junction improvements which addresses part of the refusal reason. The Highway Officer maintains an objection to the scheme on the grounds that traffic generated from the proposal would use a road (C242) which, by virtue of its inadequate width and alignment, is considered unsuitable to accommodate the increase in traffic resulting from this development. This objection relates to the physical attributes of the highway network and is incapable of being overcome by the applicant; the C242 is a 2.4 mile section of highway linking the A365 at Sells Green with the A342 at Bromham, via Berhills Lane, Durllett and Hawk Street.

Local residents have expressed serious concerns regarding the impact of development upon highway safety. The issues raised overlap with the Highway Officer's concerns, particularly in respect of the restricted highway width and poor alignment to the north. Any appeal against a refusal of planning permission would give the objectors the opportunity to raise any highway issues not covered by the Highway Officer's suggested refusal reason. An appeal inspector would have a duty to consider these additional concerns.

### **Impact upon Visual Amenity and Landscape Character**

The site lies in an area of countryside which is not covered by any landscape designations. The proposal would maintain the existing field boundary structure and the hedge would be maintained along the site frontage. Recent hedge trimming has demonstrated that the highway visibility splays can be achieved whilst maintaining the existing hedge, and this could be strengthened with additional planting to the rear if required.

Views of the site from Berhills Lane would be restricted to glimpses through the entrance. The site topography means that there would be some views from the A365 on the approach from Melksham. However, it is not considered that these views would be harmful to visual amenity or landscape character. The basic structure of the landscape provided by existing trees and hedgelines would be retained.

The Council's Landscape & Countryside Officer made comments on the first application for the site, raising no objections to the scheme in principal. He considered that it should be possible to locate the proposed golf course on the site without a significant detrimental impact on the character and appearance of the key characteristics of the site and surrounding countryside. Amended plans were submitted which satisfactorily addressed his residual concerns, and the current



application is based upon those amended plans agreed as part of E/09/0640/FUL.

The potential for light pollution is a legitimate planning concern. Floodlighting would be visible from a considerable distance and it would be seriously harmful to the amenities of the area. The applicant has confirmed that no floodlighting will be required and this can be secured by way of a planning condition. Objectors are sceptical, believing that the business will not be viable without some form of lighting; they are concerned that the applicant will obtain planning permission based on false promises and then apply for floodlighting at a later date. Whilst this is a possibility, it would not be reasonable to refuse planning permission for the driving range on the grounds that lighting would be harmful, if the applicant is specifically stating that no lighting is being proposed. If a planning condition is imposed to restrict external lighting then the merits of any future proposal can be considered at a later date.

Objectors have raised concerns regarding the impact of the proposals upon the appearance of the area. They express specific concerns regarding the proposal for timber buildings and the impact of fairways on the rural landscape. Officers consider timber buildings to be perfectly acceptable in this location; timber is commonly used in rural areas (e.g. for stables) and the proposed buildings have been sited to minimise their visual impact. Golf courses will inevitably have an impact upon the landscape due to their manmade design. However, the current proposal maintains the basic landscape structure and as a result any change to landscape character would be relatively localised.

#### **Impact upon Protected Species**

The planning application is accompanied by a protected species survey carried out on behalf of the applicant by the Dorset Ecological Consultancy, the in-house consultancy within the Dorset Wildlife Trust. An identical report was submitted as part of the first planning application (E/09/0640/FUL). The survey work was carried out in January 2009; this can still be relied upon for the purposes of the current planning application. The recommendations of the report can be made the subject of appropriately worded planning condition(s), with the exception of the Biodiversity Management Plan which the Council Ecologist considers to be an unreasonable requirement.

The Council Ecologist has been reconsulted for the latest application and has discovered evidence of great crested newts on the site. These species are protected by law and therefore there is a requirement for the applicant to consider the impact of development upon the newts and to identify any mitigation measures required. This issue has been discussed between Dorset Ecological Consultancy and the Council Ecologist and a mitigation strategy has been agreed. A planning condition would be required to secure implementation. On this basis, the County Ecologist does not object to the proposal.

#### **Impact upon Neighbour Amenity**

The site is located on the edge of Sells Green but is buffered from the main built-up area by the former railway line. The nearest dwelling is 'Equestria' which lies diagonally opposite the site entrance.

The owner/occupier of Equestria has expressed concerns regarding noise and disturbance caused by the car park being opposite his property. Concerns are also expressed regarding the loss of view caused by erection of fencing to protect the car park from golf balls and the potential for disturbance resulting from evening and night time activities, possibly involving consumption of alcohol and the lighting of fireworks.

It is not considered that the objector's concerns would be grounds for a refusal of planning permission. Noise from the car park is unlikely to cause nuisance and there is no evidence to indicate that the facility would be used as a function venue, and no suggestion that the premises would be licensed for alcohol.

The physical relationship between the objector's property and the site is relevant in making the above judgement. Equestria is separated from the site by Berhills Lane and its garden lies to the rear of the property in a position where the dwelling itself would provide a physical barrier to the passage of sound.

Other objectors raise concerns regarding nuisance from stray golf balls, noise from the crack of clubs hitting golf balls, loss of outlook and overlooking of gardens from raised tees and fairways. It is not considered that these issues would warrant a refusal of planning permission.

- The golf course and driving range would be separated from residential gardens on Bath Road by a distance of at least 35m and there would be intervening trees and hedges. On this basis it is not considered that loss of privacy would be an issue.
- Loss of outlook is not a material planning consideration unless the impact is particularly overbearing or overshadowing. The objectors may have some views of the golf course through gaps in the boundary hedges but this in itself is not adequate reason to refuse planning permission.
- The issue of stray golf balls is more of a management issue (or a private issue to be resolved between neighbouring landowners).
- Golf is not a spectator sport and it is not generally a noisy activity. It is not considered that the crack of golf balls would constitute a noise nuisance.

## **Other Issues**

### **a) Archaeology**

The Wiltshire Sites and Monuments Record indicates that the site lies within a potentially archaeologically sensitive area. However, the County Archaeologist has no objections to development subject to a condition being imposed requiring further archaeological work in line with government advice contained in PPS5.

### **b) Need & Viability**

Objectors raise the issue of whether there is a need for the development and whether it would be viable in this location. It is impossible to make a judgement on whether there are already sufficient golf courses in the area and it is equally difficult to form any conclusions on the likely viability of the proposed business. It is certainly true that there are several other similar businesses in Wiltshire; however, this does not mean that an additional golf course and driving range would not be economically viable.

### **c) Landfill**

Objectors express concern that the proposal is simply a means of disposing of waste without paying the landfill tax. Whilst this is a valid concern, the objectors must also consider the possibility that the applicant may genuinely want to build a golf course and driving range. The application must therefore be taken at face value. If members are minded to grant permission, it may be necessary to investigate the means by which the Council could be assured that the works will be completed and local residents not left with an incomplete eyesore. It may be that a bond could be

required as insurance against this possibility.

Concerns are expressed regarding the nature of the fill material, given that 'inert' material can encompass a wide variety of material from bricks and concrete to glass, tiles and ceramics. The nature of the fill could be controlled by way of a planning condition.

**d) Precedent for Residential Development**

Objectors are suspicious that the current application may lead to a planning application for residential development on the site. The applicant has denied that this is his intention. In any event, a grant of planning permission for a golf course and driving range would not make it any easier for the applicant to obtain planning permission for residential development on the site. Residential development in this location would be completely contrary to current local plan policy.

**e) Deficiencies with Golf Course Design**

Objectors raise various issues with the design of the facility, notably with the inter-relationship between the golf course and the driving range and the potential for health and safety issues to arise. These issues are matters for the golf course operator and are not for consideration as part of the current planning application.

**RECOMMENDATION**

Refuse planning permission for the following reason:

Traffic generated from this proposal would use a road (C242) which, by virtue of its inadequate width and alignment, is considered unsuitable to accommodate the increase in traffic resulting from this development. The proposal is therefore contrary to Policy PD1(B4) of the Kennet Local Plan 2011.

**Appendices:**

None

**Background Documents Used in the Preparation of this Report:**

Planning application files (as referred to in the report), Kennet Local Plan 2011, Kennet Landscape Conservation Strategy and PPG17: 'Planning for Open Space, Sport and Recreation'.