



Appeal Decision

Site visit made on 4 February 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 16th March 2020

Appeal Ref: APP/M4510/W/19/3240933

Welbeck Academy, Flodden Street, Newcastle Upon Tyne NE6 2QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Robinson (Wise Academies) against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2019/0509/01/DET, dated 01 April 2019, was refused by notice dated 13 June 2019.
 - The development proposed is the construction of a new multi-use games area to the rear (West) of the school building, Welbeck Academy, sited on the existing playing field. The works will provide a dedicated area for sporting activity and exercise.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on playing field provision.

Reasons

3. Wellbeck Academy comprises a range of buildings with a hardstanding playground and extensive playing fields. It is allocated in the Newcastle upon Tyne Unitary Development Plan Adopted January 1998 (the UDP) as an education establishment with attached open space.
4. The proposal is an all-weather surface multi-use games area (MUGA) approximately 24m x 40m, surrounded by a mesh fence approximately 2m in height. It would be located roughly halfway along the edge of the playing field adjacent to the playground and it would result in the permanent loss of part of the playing field.
5. Policy OS1.4 of the UDP seeks to avoid harm to public or private open space for outdoor sport, unless exceptional circumstances apply. The exceptions set out in Policy OS1.5 of the UDP include new or improved essential community facilities for which there is no suitable alternative site and where there would be alternative provision of equivalent community benefit.
6. The UDP pre-dates the National Planning Policy Framework (the Framework). Nevertheless, Policies OS1.4 and OS1.5 are reasonably consistent with Paragraph 97 of the Framework which requires that playing fields are not built on unless the land is clearly surplus to requirements, the loss would be

- replaced by equivalent or better provision, or the sport and recreational benefit of the proposal would clearly outweigh the loss of the current use.
7. Sport England playing field policy is similarly consistent with the Framework in requiring that development does not result in the loss of or prejudice the use of all or part of a playing field, subject to certain listed exceptions. These include where proposals do not affect land capable of forming part of a playing pitch or reduce the size or the capacity of the field to accommodate playing pitches, and where the proposal is for an outdoor facility or sport, the benefit of which would outweigh the harm or loss.
 8. Evidence has been submitted with the appeal to demonstrate that, even allowing for the proposed MUGA, the remaining playing field would exceed the Department of Education's area guidelines for playing fields. However, the calculation appears to have been based on 340 pupils, whereas the Design and Access Statement refers to 450 pupils at the Wellbeck Academy. On that basis, I cannot be certain that the remaining area of playing field would meet the recommended area requirement. Moreover, as the guidelines relate to the disposal or change of use of playing fields it is not clear in any case that they are directly applicable to the appeal proposal.
 9. The plans that were considered by the Council do not illustrate how the existing playing field is used, including in terms of the positioning of playing pitches. A revised plan has been submitted with the appeal to illustrate how a football pitch for use by adults could be accommodated. However, it does not illustrate the existing use of the playing field or that its capacity to be used for other sports, including junior football pitches, cricket, rounders, athletics and rugby, would not be compromised. Consequently, it has not been demonstrated that the appeal site is surplus to requirements or that the proposal would not prejudice the use of the playing field.
 10. The MUGA would enable students to participate in sporting activities not currently offered at the school. It would be available for use throughout the year, including during break times and as part of formal physical education. In this respect, the proposal would make provision for outdoor sport and exercise. However, there is no substantive evidence before me to demonstrate that the health and well-being benefits of a MUGA would clearly outweigh the harm to the playing field.
 11. Moreover, it has been brought to my attention that the design of the MUGA does not accord with the requirements of any national sports governing body or Sport England guidance. The proposal does not contribute to any national sporting strategy. Therefore, it has not been demonstrated that the proposal would result in equivalent or better outdoor sports provision or that the benefit would clearly outweigh the harm.
 12. Therefore, the proposed development would be detrimental to playing field provision. It would conflict with the requirements of Policies OS1.4 and OS1.5 of the UDP. It would conflict with the policies in the Framework that relate to the health and well-being of communities and requirements for open space, including playing fields. It would not meet Sport England's policy exceptions for the loss of playing fields.

Other Matters

13. The appellant considers that the Council refused permission based on Sport England's objection and with no consideration to the benefits to the school. However, Sport England is a statutory consultee. It was therefore appropriate for the Council to give considerable weight to its opinion and to determine the application in accordance with relevant local and national planning policies.
14. Moreover, there is evidence that Sport England sought to engage with the appellant to explore solutions that would overcome its concerns. The school is acknowledged to serve a disadvantaged community. Therefore, making the playing field available for use by the local community would deliver substantially greater benefits in terms of health and well-being than its use by students only. In this regard, Sport England is not prioritizing the needs of the local community above those of the students, but rather it is suggesting a solution that would clearly overcome the policy conflict.
15. Alternative locations closer to the external boundaries of the playing field have been discounted for reasons relating to safeguarding, security, health and safety and school organisation. However, the appellant acknowledges that other alternatives, including re-orientation and re-siting of the MUGA to minimise the harm, have not been explored. Therefore, I am not persuaded that there are no alternative solutions at this site that could deliver similar benefits to the students without the conflict with the development plan.
16. My attention has been drawn to educational facilities elsewhere in the area with MUGAs. Full details of these have not been provided. However, on the evidence before me, it appears that they were constructed on playgrounds or on land that did not constitute playing fields. Therefore, they are not directly comparable to the appeal scheme and they do not provide a justification for it.

Conclusion

17. I have found that the proposed development would conflict with the development plan and there are no material considerations that would outweigh that conflict. For this reason, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR