



Appeal Decision

Site visit made on 13 July 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/X0415/C/21/3270367

**Holmer Green Senior School, Parish Piece, Holmer Green,
Buckinghamshire HP15 6SP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Holmer Green Senior School against an enforcement notice issued by Buckinghamshire Council (East Area - Chiltern)
 - The enforcement notice was issued on 20 January 2021.
 - The breach of planning control as alleged in the notice is: *Without planning permission the erection of an air inflated structure ("Air Dome") to cover four tennis courts on the land and associated plant and equipment in the approximate location shown hatched in bold black on the Plan.*
 - The requirements of the notice are:-
 - 5.1 Disassemble and remove the Air Dome from the land;
 - 5.2 Disconnect and remove any plant and equipment associated with the Air Dome; and
 - 5.3 Remove from the land all debris and materials arising as a result of compliance with steps 5.1 and 5.2 above
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended (the 'Act'). Since an appeal has been brought under ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. I consider the main issues to be:
 - a) The effect of the appeal development on the character and appearance of the area;
 - b) The effect of the appeal development on users of Holmer Green Infant & Nursery School and occupiers of 21 & 22 Glebe Close and 12 Stevens Close with regard to outlook;
 - c) The effect of the appeal development on users of the Infant School and occupiers of neighbouring properties with regard to light and glare; and
 - d) The amenity of users of the Infant School and occupiers of properties in Glebe Close and Stevens Close with regard to noise.

Reasons

a) Character and appearance

3. The appeal site comprises 4 outdoor tennis courts located on the western side and within the grounds of Holmer Green Senior School (the 'appeal school'). There is a fairly typical arrangement of educational buildings of varying designs, sizes and heights, as well as playing fields. The appeal school is located within the built-up area of Holmer Green village, within a predominately residential area. There are detached bungalows in Glebe Close and Stevens Close, which lie to the north of the appeal school. Houses of varying types and designs also border the appeal school and its playing fields, including along Watchet Lane.
4. The Holmer Green Infant and Nursery School (hereafter referred to as the 'Infant School') is sited in close proximity to the western boundary of the appeal school. Most of the Infant School's buildings are low lying and single storey. The shared boundary comprises a green weld-mesh fence.
5. A gated footpath runs along the northern boundary of the appeal school, together with a tall 3-6 metre high hedge, both of which are owned by the appeal school. The hedge screens the bungalows in Glebe Close and Stevens Close from view. The footpath links Parish Piece with Watchet Lane, and provides access to the appeal school and Infant School for pupils and parents/carers only when the gates are opened at the start and end of the school day. It is not a public footpath.
6. The appeal development comprises an inflatable Air Dome that has been installed over the four existing outdoor tennis courts¹ adjacent to the Infant School and footpath. The Air Dome measures about 64.8 metres by 37.4 metres and reaches about 10.5 metres in height at the top of the dome. The Air Dome is made of a white PVC membrane and is kept inflated by plant that has been installed at its southern end. The plant also provides heating in cooler months. There is a main entrance with revolving glass doors at the northern end of the Air Dome and emergency exit doors in the other elevations.
7. As I walked along Watchet Lane the white Air Dome was visible from a number of vantage points between the gaps of some of the houses. It would be more visible when some of the trees lose their leaves in the winter months. The gap in the street between the Infant School and nearest dwelling also gives a vantage point, although at the time of my visit this gap was being used as a site entrance for the construction works within the school grounds. The Air Dome was also clearly visible across the Infant School grounds, rising up behind its buildings and playground. Similar views are gained from the Squash Centre opposite the Infant School. Despite the tall hedge along the footpath, the size and scale of the Air Dome mean it is also visible and looms up behind some of the properties and their gardens, in particular 21 & 22 Glebe Close and 12 Stevens Close.
8. Against the backdrop to residential properties and the low-lying Infant School buildings and open playground I find the large, tall, white Air Dome – which is more akin to a huge marquee or tent - is an alien and incongruous form of development at odds with the prevailing character and appearance of the area.

¹ Which were granted planning permission on 1 May 2020 under LPA ref: PL/19/2262/FA

9. Drivers along Watchet Lane would get more fleeting glimpses due to it being set back from the road and out of the main angle of view, but this does not diminish the harm I have identified.
10. The new sports hall building will be glimpsed in part as it is closer to rear gardens boundaries than the dome. However, the sports hall is set at an angle and presents much less development to the footpath, school boundary and rear garden boundaries. Hence its context and relationship is different to that of the Air Dome and does not adversely affect the character and appearance of the area to the same degree.
11. The Air Dome is visible from the footpath, but at close quarters reads as part of the variety of school buildings within the overall complex. I accept that buildings within an educational institution can be of a different scale and character to surrounding residential properties and this is not an uncommon relationship. I saw on my visit that construction works were underway for a two-storey teaching block and new sports hall, which are located close to the Air Dome and will be approximately 8.6 metres and 10.4 metres high respectively. This is not dissimilar to the overall height of the Air Dome. As construction has progressed, the Air Dome is now read more with the adjacent school buildings from some viewpoints than when the Council first assessed it.
12. Although the colour of the Air Dome helps it blend against dull or cloudy skies it can nonetheless be seen due to its unusual shape, scale, form and bulk. I find it likely there would be a greater visual contrast and prominence when seen against a blue sky.
13. I stood inside the Air Dome and saw that it can be illuminated internally with numerous lights suspended from the ceiling. The use of the courts is restricted by condition and a Community Use Agreement (CUA) until 17:00 hours Monday to Saturdays, 15:00 hours on Sundays and 13:00 hours on Bank Holidays². Whilst the dome will not be in use late into the evenings, any internal lighting will nonetheless make the entire dome light up, unlike the effect of light from windows or parts of a roof in a more conventional building, as evident in third party photographs. The internal lights may also be switched on when light levels drop, for example on dull days, which is not necessarily when it is dark. Also in the winter when it gets darker sooner, the glow of the Air Dome will persist for longer. In my view the internal illumination further exacerbates the incongruity of the Air Dome.
14. I have considered the appellant's Landscape and Visual Appraisal Report (LVAR) with its various identified viewpoints. I have also looked at the various montages that show the progress of growth of the new trees that have been planted along the boundaries with the footpath and the Infant School. It is evident that they do not provide immediate visual mitigation, and any substantial screening will take time to establish.
15. In conclusion, I find the appeal development is of a size, scale, shape, form and material that results in an incongruous and alien form of development that adversely harms the character and appearance of the area. Accordingly the development is contrary to Policy GC1 of the Chiltern District Local Plan 1997³

² With no use on Christmas Day, Boxing Day, New Year's Day and Easter Sunday.

³ Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011

(the 'Local Plan') and Policy CS20 of the Core Strategy for Chiltern District⁴ (the 'Core Strategy').

b) *Outlook*

16. A loss of outlook occurs where development has an adverse overbearing effect that results in an unduly oppressive living environment for occupiers/users of adjacent land or building.
17. The entire 64.8 metre length of the western side of the Air Dome is in close proximity to the low-lying buildings, windows and playground along the eastern side of the Infant School - set about 5 metres away. This represents a substantial amount of development along this boundary.
18. From the submitted plans and photographs, not all of the windows serve classrooms. Nonetheless, views out of the classroom windows and towards the sky are reduced and observers are faced with the tall sides of the Air Dome, even though they slope away from the boundary. Consequently, the affected classrooms will experience a more oppressive environment and create an unsatisfactory outlook for the children and teachers using them. The row of planted trees will eventually hide the top part of the dome from view, but it will be still visible between the tree trunks and beneath the tree canopy and will not, in my view, sufficiently mitigate against the overbearing outlook.
19. The outlook from 12 Stevens Close and 21 and 22 Glebe Close, whose rear windows and gardens face directly towards the Air Dome, will also be affected. This is to a lesser degree than for the Infant School, due to a greater separation distance and the intervening tall hedge along the footpath. However the effect is longer lasting as residents see the Air Dome during the evenings and weekends when the Infant School is closed. Whilst the planted trees will grow in time, this does not adequately mitigate against the harm it is causing now.
20. I find the appeal development creates an unneighbourly, dominant and overbearing form of development that results in an unsatisfactory outlook to users of the Infant School and occupiers of 21 and 22 Glebe Close and 12 Stevens Close. Accordingly it is contrary to Local Plan Policy GC3, which seeks to protect existing properties from obtrusive development that can impair quality of life.

c) *Light and glare*

21. The appellant has submitted a Daylight and Sunlight Report (the 'Light Report'), based on the Building Research Establishment (BRE) guide⁵. The Light Report confirms there is some loss of sunlight and daylight to the classroom windows which face the Air Dome, but overall the appeal development will have a low impact on light receivable by these windows. Despite some light loss, BRE requirements for daylight and sunlight to the windows are met. The Council has not provided any technical evidence to support its claim of unacceptable levels of light loss.
22. I therefore find the loss of daylight and sunlight to the classrooms facing the Air Dome will not be materially harmful to the users of the Infant School. There

⁴ Adopted November 2011

⁵ *Site Layout Planning for Daylight and Sunlight: a guide to good practice* 2nd Edition (2011)

would not be any conflict with Local Plan Policy GC2, which seeks to ensure that new development does not deprive existing land or buildings of sunlight or daylight to a significant degree.

23. With regards glare there are third party accounts, including from neighbouring from staff at the Infant School, of incidences of glare. The appellant describes the path of the sun and that by the time the sun is in the west the Infant School day has largely finished, and properties to the north are not so affected. I am not satisfied that the extensive white PVC membrane surface of the Air Dome, even if it has dulled since installation, does not give rise to an undue brightness and glare that unacceptably harms the amenity of neighbouring occupiers who have to look at it. It therefore conflicts with Local Plan Policy GC3 that seeks to ensure good standards of amenity are enjoyed by existing occupiers and users of neighbouring and adjoining properties.

d) Noise

24. There would have been noise from use of the existing outdoor courts, whether during school hours, or after school as part of the CUA. However, the Air Dome has the potential to facilitate greater use of the courts as they are protected from bad weather.
25. There are two main sources of noise: noise from use of the Air Dome and noise from the plant. On the latter, the parties agree that noise levels affecting the Infant School and its playground could be mitigated by the erection of acoustic fencing around the plant controlled by a planning condition and I understand the appellant is amenable to this. I shall therefore focus on noise from use of the Air Dome itself.
26. For the retrospective planning application⁶ for the Air Dome the appellant did not submit any substantive noise data or a noise survey in relation to the actual use of the Air Dome. However, the Council's Environmental Health Officer (the EHO) did do some quantitative and qualitative noise monitoring from inside Infant School classrooms facing the Air Dome and from the gardens of nearby residential properties. This was undertaken before construction works started on the new teaching block and sports hall.
27. Although based on a limited dataset, the EHO monitoring confirmed a noticeable increase in noise levels to teaching areas of the Infant School closest to the dome when the Dome was in use. Furthermore, the upper limit for the indoor ambient noise level was exceeded when compared against Building Bulletin 93⁷ (BB93).
28. The appellant has since supported their appeal with a Noise Impact Assessment (NIA). Noise monitoring was undertaken from a number of locations over a number of days. Using the BB93 guidance, Sports England's design guidance⁸ as an indication of typical noise levels, and the ProPG guidance⁹ for new residential development, the NIA concludes that the Air Dome reduces noise levels from the existing activities on the courts. Measurements taken 2

⁶ LPA ref: PL/20/2359/FA refused 20 November 2020

⁷ Department for Education & Education Funding Agency Report *Acoustic design of schools: performance standards Building Bulletin 93 (February 2015)*. Both parties accept that this is the most appropriate guidance on acceptable noise levels within a teaching environment, even though it relates to new build and refurbishment scenarios.

⁸ Sport England Design Guidance Note *Artificial Grass Pitch (AGP) Acoustics – Planning Implications* (August 2015)

⁹ ProPG: *Planning & Noise – New Residential Development* (May 2017)

metres away from the Air Dome as a 'worse case' are less than Sport England's guidance on noise levels for 10 metres distance away from the side lines and the upper noise limit to new residential properties. It is also within the ProPG noise levels. Furthermore, the BB93 noise targets were met at the Infant School. Overall the NIA concludes that the Air Dome acts as a buffer to provide some airborne sound reduction. It has a net acoustic benefit such that the Air Dome produces sufficiently low noise levels in line with planning guidance.

29. However, the noise findings of both parties have limitations. Neither was able to monitor noise levels before the Air Dome was installed. The Council's monitoring details are limited in fact and recorded data. No further noise monitoring has been undertaken since the EHO consultation response to the retrospective application.
30. The appellant's NIA does not include any quantitative assessments of noise levels from the Infant School or residential gardens, or noise measurements from within the Infant School classrooms. The NIA did not account for openable windows in these classrooms, which is the only method for ventilation and thermal control. Noise monitoring levels were undertaken during the construction of the nearby school buildings, even though some account was taken. I am also advised that the monitoring period coincided in part with the closure of the school for half-term holiday, such that it may not be representative of noise levels.
31. The Framework requires that new developments are appropriate for their location to avoid noise giving rise to significant adverse impacts, including the likely effects on living conditions and the wider area (paragraphs 174 and 185). With the various shortcomings of the noise evidence from both parties this causes me to question the reliability of the outcomes.
32. As a result, it is not possible for me to conclude with any degree of certainty that the Air Dome does or does not cause unacceptable levels of noise to occupiers and users of the Infant School and neighbouring residential properties. Accordingly the development is contrary to Local Plan Policies GC3 and GC7, which collectively seek to ensure good standards of amenity and protect other noise-sensitive sites from developments that cause an unacceptable degree of disturbance.

Other Matters

33. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.

Planning Balance and Conclusion

34. The lack of harm caused from loss of light is a neutral factor in my considerations. The application for the replacement courts on this site advocated that they would ensure a sport/recreation facility available to the wider community. To that end a condition was imposed to secure a CUA, which has been done in consultation with Sport England. The Air Dome does not affect this provision.
35. I can understand that the covered courts can help increase participation from those who are shy of being viewed. However, the new sports hall could do that.

36. The covered courts have the potential to increase the opportunities for sports to be played in bad weather, by both the school and outside groups. However, the construction of the new sports hall would indicate to me the appeal school is not without indoor facilities.
37. The Air Dome also has the potential to increase participation in sports in an area apparently suffering from rural deprivation, with the recognised health and fitness benefits, endorsed by the Framework, including tackling obesity. However, these factors hold true for the existing outdoor courts with the help of the CUA.
38. I note the support from Sport England who refer to the dearth of indoor tennis facilities in Buckinghamshire. Nonetheless, it is unclear what has fundamentally changed with regard to sport provision and need in the area so soon after last year's grant of planning permission of the outdoor courts, to warrant the courts now needing to be covered by the Air Dome. I am not satisfied of the need for the Air Dome in this regard or that it is the only way such a facility can be provided, at the school or elsewhere. Therefore I give the need for the 'indoor' facilities moderate weight in this instance.
39. I am led to understand that the Air Dome was also erected in order to provide a covered space for additional indoor space for exams, lunchtimes and break times, to meet Government guidelines on social-distancing during the Covid-19 pandemic. The Covid restrictions will likely have affected other schools too and is not unique to the appellant. However, no substantive evidence has been presented to show a shortage of space at the school, or why erecting the Air Dome was the only or most appropriate solution. I give this matter limited weight.
40. I am not satisfied that these matters outweigh the harms I have identified. For the reasons given above, and having regard to the matters raised, I find the appeal development is contrary to the development plan and there are no other considerations which outweigh this finding.
41. I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

K Stephens

INSPECTOR