



Appeal Decision

Site visit made on 7 September 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/A0665/W/21/3274215

Firs School, 45 Newton Lane, Chester CH2 2HJ

- 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 Longman of Firs Education Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 20/04745/FUL, dated 11 December 2020, was refused by notice dated 25 February 2021.
 - The development proposed is the erection of a new classroom block and multi-use games area, and removal of existing mobile classrooms.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development used in the banner heading above is adapted from that used on the Council's decision notice and subsequently in Section E of the appeal form, as it provides a slightly more detailed and accurate description of the proposal than that used on the original planning application form.
3. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Both main parties were therefore asked to comment on the relevance of the revised Framework to this appeal, although neither chose to do so. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.

Main Issue

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - Living conditions for nearby residents, with particular regard to noise disturbance, loss of privacy, and whether or not the development would be overbearing; and
 - Protected and retained trees, including whether or not sufficient replacement trees could be provided.

Reasons

Character and appearance

5. The Firs School is an independent primary school operating from a range of buildings of various ages, including the large detached former house from which it takes its name, a 2016 assembly hall block, and demountable buildings providing nine temporary classrooms. The appeal site also includes areas of soft and hard landscaping (including playgrounds and car parking areas), and numerous mature trees. It lies in a suburban area of Chester, with housing immediately adjoining the appeal site to the west on Well Lane and to the north on Whitton Drive and Milborne Close, and to the east and south across Wealstone Lane and Newton Lane. Boundaries to the surrounding streets are formed by low- or medium-height brick walls with hedges behind, while the boundaries to neighbouring gardens are generally fences, sometimes augmented with hedges.
6. The proposal is the erection of a new classroom block, part one- and part two-storey, to replace the temporary classrooms. This would be located towards the south west corner of the site close to Well Lane, following the removal of one of the mobile buildings. In order to allow the school to continue to function during the development period it is intended that this would be a phased development with the two-storey southern part of the new building providing seven classrooms being built first, with the single-storey northern part following as a second phase. A new multi-use games area ("MUGA") would also be constructed towards at the rear of the site, adjacent to the boundary with the gardens of houses on Milborne Close. All mobile classrooms would be removed on completion of the development.
7. The proposed new classroom block would be taller than the existing demountable buildings it would replace. It would be set some way forward of the prevailing building line on the north side of Well Lane (including that of an electricity substation between the school site and No 2 Well Lane). It would also be taller than, and a considerable way forward of, the 2016 assembly hall building to the north east. Because of this, and the fall in ground level from within the school site towards Well Lane, it would be a prominent addition to the area which would dominate and constrain the otherwise spacious streetscape at the entrance to Well Lane from Newton Lane. It would also have the effect of closing off Well Lane from the west at a point where it currently opens up onto the school site and the junction with Newton Lane. For these reasons, I consider that the proposed classroom block would not respect the prevailing scale, layout and grain of the surrounding area.
8. I acknowledge that, as the appellant has pointed out, the classroom block would take design cues, including materials and its broad form, from the nearby 2016 assembly hall building. However, this would not outweigh the harm which I consider would arise from its siting.
9. I conclude that the because of the siting of the proposed classroom block it would be intrusive, dominating, and at odds with its surroundings, and as a consequence it would be harmful to the character and appearance of the area. The proposal therefore conflicts with Policy ENV6 of the 2015 Cheshire West and Chester Local Plan Part One ("the Part One Plan") and Policy DM3 of the 2019 Cheshire West and Chester Local Plan Part Two ("the Part Two Plan").

Living conditions

10. The two-storey part of the proposed classroom block would be close to the rear windows and gardens of neighbouring houses on Well Lane. There would be around 10.5m (by the appellant's calculation) between the classroom block and the boundary with No 2 Well Lane, with around 11.3m (by the Council's calculation) between the actual buildings. A thick evergreen hedge on the boundary already provides some screening between the appeal site and its neighbours, and I note also the appellant's proposal to install external screen louvres on the first-floor windows facing the neighbouring dwellings. These measures would be likely to limit direct overlooking of the rear garden of No 2. However, the upper floor windows of the classroom block would be close to and visible from the rear garden of No 2, and even if no direct intervisibility were to be possible I consider it likely that there would be a significant perceived loss of privacy.
11. Furthermore, I was also able to see the appeal site from the upper rooms at the rear of No 2 during my site visit. From that point of view, it was possible to appreciate how close the classroom block would be to the neighbouring houses. Given the proposed height of the classroom block and its proximity to these windows, it seems to me that it would be somewhat overbearing. It was also apparent that louvre screens would be likely to have a very limited effect, if any, on restricting oblique views from the first floor of the classroom block into and across the rear first floor windows of No 2 Well Lane and the other houses beyond. I therefore also consider that the siting of the classroom block would lead to a significant harmful loss of privacy for neighbouring residents.
12. The Council's decision notice referred to noise disturbance arising from use of the MUGA, although the officer report did not substantively demonstrate how or why it would cause significant harm to neighbours' living conditions. While I note neighbours' comments about noise from the school, these seem to me to relate to the everyday noise of games and sports which one would expect from any primary school, rather than being specifically related to the proposed MUGA. I therefore do not consider that the proposal would cause unacceptable noise disturbance to neighbours' living conditions. Other interested parties commented on the potential for the classroom block to cause overshadowing and a loss of daylight or sunlight to nearby gardens, but it would be north and east of its nearest neighbours and there is no substantive evidence that it would be harmful in this respect. I therefore find that the proposal would be acceptable in terms of noise and overshadowing, but this does not outweigh the other harm I have found.
13. I conclude that the proposed classroom block would be overbearing, and would lead to a real and perceived loss of privacy in neighbouring homes and gardens. It would therefore be harmful to living conditions for nearby residents, in particular for the occupiers of No 2 Well Lane. The proposal therefore conflicts with Policy SOC5 of the Part One Plan and Policy DM2 of the Part Two Plan, which among other things seek to ensure that new developments safeguard the quality of life for nearby residents.

Trees

14. Two mature trees which are protected by a Tree Preservation Order lie just outside the northern boundary of the appeal site, in the rear gardens of properties on Milborne Close (referred to as T14 and T15 in the appellant's tree

survey). The MUGA would, in part, be installed within the root protection area ("RPA") of these trees. However, the appellant submitted arboricultural information which stated that any digging within the RPA would be carried out by hand, and that in replacing an existing non-porous hard surface in the RPA with a porous surface the growing conditions for those trees may in fact be improved. I am satisfied that, had the proposal been acceptable in all other respects, a condition requiring work to be carried out in accordance with the submitted arboricultural method statement would have been an appropriate means of addressing this matter.

15. Four existing trees would be removed to allow the installation of the MUGA. I note that the Council did not appear to raise a fundamental objection to the loss of those trees, although given the site's constraints it was concerned that replacement tree planting at a ratio of two new trees for every tree lost, as required by the development plan, could not be provided. However, nothing I saw at the time of my visit indicated to me that it would not be possible to provide adequate replacements within the site. Again, this is a matter which in my view it would have been possible to address with an appropriately-worded condition.
16. The Council was also of the view that the development would be likely to result in increased pressure to remove trees. In the case of the protected trees T14 and T15, which would overhang the MUGA, it considered that this would arise because of overshadowing and falling leaves. In the case of trees on the southern boundary next to Well Lane, it considered that the first floor windows of the classroom block would "be at the same height as the trees, completely shading the classrooms and again increasing the likelihood pressure for the removal of the trees".
17. However, I saw that both of the protected trees T14 and T15 give good clearance above ground level and so would be unlikely to directly interfere with games on the MUGA, while their location to the north of the MUGA means that overshadowing would be very limited. The suggestion that there would be pressure to remove the protected trees to prevent leaves falling or blowing into the MUGA seems to me to be speculative and a measure which, in an area with numerous mature trees, would in any case be likely to be futile. In respect of the trees at the southern boundary, the submitted arboricultural method statement indicates that their crowns would be raised to provide clearance for the proposed classroom building, so again the Council's concerns seem speculative rather than substantive. I therefore do not consider that the issues raised by the Council in respect of the existing trees are well-founded, and they do not weigh against the proposal.
18. Subject to the use of appropriate conditions in respect of tree works and replacement planting, I conclude that the proposed development would not cause significant harm to protected and retained trees, and adequate replacement tree planting could be secured. The proposal would therefore comply with Policy DM45 of the Part Two Plan which seeks to conserve, manage and enhance existing trees and, where this is not possible, requires adequate replacement planting to be secured.

Other matters

19. I note comments made by interested parties about issues such as car parking and traffic, but these relate to the current situation in the area rather than the

appeal proposal. The appellant's evidence is quite clear that the classroom block is intended to replace the existing temporary buildings and would not represent any operational expansion of the school, and I have determined the appeal on that basis.

20. I acknowledge that it would be beneficial to the operation of the school, and indeed to the character and appearance of the site and the wider area, to replace the existing temporary mobile classrooms. While I am therefore sympathetic to the appellant's ambitions in this direction, for the reasons I have set out above I do not consider that the scheme before me would achieve this without causing other unacceptable harm.
21. I note the appellant's comment that "if the school role is not maintained the business could fail" and that he would "have to look at the fallback position of developing the site for residential development and this will most probably be two-storey housing offering no first-floor mitigation". It is not quite clear to me what that final expression is intended to convey, as any proposal for an alternative use of the site would have to comply with development plan policies in respect of character and appearance, neighbours' living conditions, and all other matters. In any event, there is no substantive evidence that a proposed alternative scheme is forthcoming, and the suggestion therefore carries negligible weight as a fallback position.

Planning Balance and Conclusion

22. I have found that the proposed development would be acceptable in respect of its effects on trees. However, the siting of the proposed classroom block would be harmful to the character and appearance of the area, and to neighbours' living conditions. It would therefore conflict with the development plan taken as a whole.
23. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector