



Appeal Decision

Site visit made on 16 May 2022

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/G5180/W/21/3289429

Bullers Wood School for Boys, Chislehurst Road, Chislehurst BR1 2NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Kier Construction (Southern) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/01665/FULL1, dated 14 May 2020, was approved on 30 June 2021 and planning permission was granted subject to conditions.
 - The development permitted is erection of substation.
 - The condition in dispute is No 2 which states that: The sub-station and electrical switch room shall only be used for delivering electricity to and in connection with Bullers Wood Boys School (permitted under application ref.17/02468/FULL1) and for no other purpose and shall not be severed from the main school site to form a separate self contained sub-station.
 - The reason given for the condition is: In order to safeguard the land for educational purposes, in the interests of the amenities of the area and the residential amenity of neighbouring properties in accordance with Policies 27 and 37 of the Bromley Local Plan.
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Decision

1. The appeal is allowed and planning permission Ref DC/20/01665/FULL1 for erection of substation at Bullers Wood School for Boys, Chislehurst Road, Chislehurst, BR1 2NW granted on 30 June 2021 by the Council of the London Borough of Bromley, is varied by deleting condition 2.

Procedural Matter

2. The Council determined the planning application on a retrospective basis as the substation has been built. The fact that the substation already exists has had no bearing on my decision, which is based on the merits of the proposal.

Main Issue

3. The main issue is whether condition 2 is necessary and reasonable, paying particular regard to the need to safeguard land for educational purposes.

Reasons

4. The planning application that is the subject of this appeal resulted from the construction of a substation that did not accord with the details agreed as part of the conditions attached to permission given for the wider school development. The school permission indicated that a substation was to be built, with no conditions imposed that were designed to limit the end beneficiary. As such, condition 2 arises from the Council's later decision to grant planning permission for a substation at the site. The Appellant seeks the removal of condition 2.
5. It is noteworthy that the Council's officer report assesses the development as it currently stands as being acceptable in terms of its design and effect on neighbouring amenity. Whilst I appreciate the concerns raised by other interested parties and have paid regard to them, I do not take issue with the Council's assessment in this regard. The position of the site adjacent to a Conservation Area and designation as Other Open Space is also noted.
6. I do understand the Council's concerns relating to future pressure for expansion of the substation. However, there is no evidence to suggest that such expansion is an obvious consequence of removing condition 2. Indeed, paying regard to the evidence from UK Power Networks there is a suggestion that the substation would be underutilised if it were to only serve the school. There is no substantive technical evidence to contradict this view.
7. In addition, there is no explanation relating to how any planning issues that the Council are concerned might be linked to the risk of future expansion could not be managed through the need for the planning process to be followed if development of land were proposed.
8. I have noted the requirement relating to the safeguarding of educational land in Policy 27 of the Bromley Local Plan (Local Plan). The reference to redevelopment of educational land for alternative uses in the policy does not have significant relevance in this case. Policy 27 also indicates that educational land and buildings may perform dual functions for wider community uses.
9. In this case, the substation clearly performs an ancillary function relating to the energy needs of the school, with its necessity relating to the development and the capacity of the wider area. It has not been demonstrated that preventing surplus capacity from benefiting the wider energy needs of the area would serve a useful planning purpose or not be consistent with Policy 27.
10. Instead, there is a greater risk that the condition places an unnecessary limitation that would prevent optimisation of land use. Such an outcome would not assist with achieving sustainable development. Overall, I am not persuaded from the evidence provided that there is conflict with Policy 27.

11. Nor is there sufficient explanation to support the Council's position that condition 2 supports delivery of the design principles set out in Policy 37 of the Local Plan. In this regard, I find the Council's evidence to be lacking in specific depth and clarity.
12. Considering all the Council's evidence on this matter I am not satisfied that condition 2 has been demonstrated as necessary and reasonable, paying regard to policy in the National Planning Policy Framework (in particular the tests relating to conditions at paragraph 56). Consequently, I find no conflict with Policies 27 and 37 of the Local Plan in relation to educational land and standards of design.

Other Matters

13. I have paid regard to comments received from other interested parties. Where they relate to the main issue comments have been considered as part of the discussion above. Other comments do not alter my conclusions in relation to the main issue.
14. The history of the site, including circumstances under which the school was built, are noted. However, I have decided the present appeal on the basis of its own circumstances, which relate to the necessity or otherwise of condition 2. In addition, consideration of alternative sites for the substation and wider issues relating to landscaping at the site falls outside the remit of this appeal.
15. There is no substantive technical evidence to demonstrate that noise levels would increase as a result of the removal of condition 2. It is noted that noise, nuisance complaints have been made to the Council, which may well be investigated under other regulatory regimes that fall outside planning and the consideration of this appeal.

Conclusion

16. For the above reasons the appeal is allowed and planning permission is varied by deleting condition 2.

D.R. McCreery

INSPECTOR