



Appeal Decision

Site visit made on 31 May 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 JUNE 2022

Appeal Ref: APP/A2470/W/22/3291051

Brooke Priory School, Station Approach, Oakham LE15 6QW

- 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 Brooke Priory School Brooke Priory school Brooke Priory School against the decision of Rutland County Council.
 - The application Ref 2021/0698/FUL, dated 1 June 2021, was refused by notice dated 24 November 2021.
 - The development proposed is the construction of a new artificial multi use games area (MUGA) with associated sports lighting, fencing and ancillary features for pupils at Brooke Priory School. Includes a change of use from domestic gardens to school.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a new artificial multi use games area (MUGA) with associated sports lighting, fencing and ancillary features for pupils at Brooke Priory School. Includes a change of use from domestic gardens to school at Brooke Priory School, Station Approach, Oakham LE15 6QW in accordance with the terms of the application, Ref 2021/0698/FUL, dated 1 June 2021, and the plans submitted with it, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the development upon the living conditions of the occupiers of neighbouring properties, with regards to outlook, noise and light levels.

Reasons

3. The Multi-Use Games Area (MUGA) would be situated adjacent to the school. The MUGA would also be close to several residential dwellings. The gardens of some of these dwellings has already been reduced in order to create the area where the MUGA will be installed. The MUGA would be accessed from the school site. The surrounding area includes some other commercial uses and is near to the town centre.
4. The development would result in a permanent reduction in the size of the gardens of the existing dwellings. However, the space to the rear of these houses is still of a reasonably large scale. This is because the gardens of the dwellings adjacent to the appeal site have a significant width. This means that there is still sufficient space to the rear of the properties in order to undertake outdoors recreation.

5. Furthermore, the appeal site is close to areas of public space. This means that alternatives for outdoors recreation exist within relatively easy reach of the neighbouring dwellings. Therefore, the reduction in garden size for the existing dwellings would not lead to an erosion of living conditions.
6. The MUGA would be constructed to a relatively functional design and would have a relatively limited mass. Whilst it has been constructed near to the rear boundaries of the existing dwellings, these proportions are sufficient to prevent there being a notable loss of outlook to the users of the rear garden and the occupiers of rooms served by rear elevation windows. In addition, views through the fencing that would surround the MUGA would also be possible. This would reduce any enclosing effect.
7. Furthermore, the MUGA would be viewed alongside other commercial and school buildings. These have a generally bulky mass and functional style of architecture. In addition, one of the nearby uses includes some outside storage. This means that the development is not any more imposing than other structures elsewhere in the vicinity. In result, the outlook of occupiers of neighbouring dwellings would not be eroded by the development.
8. The development could be used for the playing of sport and other games. This would represent a change of use of this piece of land. Whilst this would naturally generate some noise, I am mindful of the character of the surrounding area. In particular, the appeal site is near to a variety of commercial uses as well as a railway line. Therefore, within this context of other noise generating uses, the development would not be unduly noticeable.
9. In addition, as garden areas, the spaces adjacent to the appeal site would not offer significant screening against any of the existing activities within the school. Therefore, the development would not represent a notable change in the environment.
10. The development would be used for limited periods of time associated with the operation of the school and other related activities. These are periods when background noises are likely to be greater. This means that the development would not erode the living conditions of the neighbouring occupiers. In reaching this view, I have had regard to the fact that some residents would remain in their dwellings during periods of the day.
11. The existing dwellings are also near to a playground and a play area as part of the wider appeal site. There is also a playing field nearby. The operation of these areas is also likely, from time to time, to generate some noise. Therefore, within the context, the MUGA would not erode the living condition of the occupiers of neighbouring properties.
12. In reaching this view, I have had regard to the fact that I can impose a planning condition that would control the times in which the MUGA can be used.
13. The development includes lighting columns. However, I can impose a condition regarding the operating times of the MUGA. This would mean that the development would not be operational during late night periods. This reduces the level of disturbance to the occupiers of the nearby dwellings.

14. In addition, the development would be constructed so that the light columns nearest to the dwellings have lights that are directed away from these properties. This reduces the overall level of disturbance.
15. I therefore conclude that the development would not have an adverse effect upon the living conditions of the occupiers of neighbouring properties. The development, in this regard, would conform with Policy CS19 of the Rutland Core Strategy (2011); Policy SP14 of the Site Allocations and Policies Development Plan Document (2014); and the Design Guidelines for Rutland and South Kesteven (2021). Amongst other matters, these seek to ensure that developments are located and designed in the most environmentally sensitive manner so as not to cause an unacceptable impact on the residential amenity of neighbouring properties; and are of a high standard of design.

Other Matters

16. I understand that some trees have been removed from the appeal site. However, the development would not have an adverse effect upon the character of the surrounding area owing to its positioning. Furthermore, for the preceding reasons, it would not lead to an adverse effect upon living conditions. In addition, the size of the development would not result in an adverse effect upon biodiversity. Therefore, the removal of trees does not require me to disregard my previous conclusions.
17. The appeal site is within the Oakham Conservation Area (the CA). For the purposes of this appeal, the significance of the CA is, in part, derived from the presence of traditional designed dwellings, with relatively small gaps between buildings. Such dwellings are also typically arranged in a linear form. In consequence views of the proposed development would be limited. This means that the development would not have an adverse effect upon the character and appearance of the CA.

Conditions

18. Although the gardens have been reduced in size, work on the construction of the MUGA is yet to commence. Therefore, the standard implementation condition is required. In addition, a condition specifying the approved plans is necessary in the interests of precision.
19. To maintain the character of the area, a condition allowing for the agreement of above ground materials is necessary. In order to ensure that the development does not adversely affect flood risk, mitigation measures are to be secured by condition. However, I have amended the wording suggested by the Council in order to omit a mechanism by which alterations could be agreed.
20. Given that the MUGA would be used by people associated with the school and would not generate excessive noise, the potential exists for adverse effects to be generated by different operators of the MUGA. Therefore, preventing third party usage of the MUGA is necessary and reasonable in this specific instance.
21. Owing to the general proximity of the appeal site to residential properties, conditions controlling the times that the lights and MUGA can be used for are necessary. It is also appropriate to limit the playing of music for the same reason.

22. Given the lights might be required to facilitate safe movement to and from the MUGA, I have amended the wording of the condition suggested by the Council to allow some time for this to take place. This additional time would not cause harm to the living conditions of the occupiers of neighbouring properties. I have also imposed a condition that would ensure that the proposed lights would not have an adverse effect upon the living conditions of neighbouring occupiers.
23. The Council has suggested a condition that would limit the use of the MUGA to term times only. However, this would not be reasonable given that the appeal documentation is clear that it is intended that the MUGA would be used for some activities in the school holidays. However, a condition specifying limited or occasional holiday time use would lack sufficient precision.
24. Given the previously described character of the appeal site and the surrounding area, combined with the nature of the surrounding uses, the operation of the development during holiday periods would not result in harm to the living conditions of the occupiers of neighbouring properties. Therefore, a condition limiting the use of the development to term time periods, or occasional uses outside of these times would be unnecessary.
25. The Council has suggested a condition that would limit the use of a service road to that associated with the MUGA only. However, given that this service road is already in place, I do not consider that its usage for activities other than maintenance of the MUGA would cause significant harm to the living conditions of neighbouring occupiers. In consequence, the imposition of such a condition would be unreasonable.

Conclusion

26. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted, subject to conditions.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers NSBP0001 Rev E, NSBPS002D, NSBPS003 Rev C, NSBP004 REV C, NSBPS005 REV E, NSBPS007 REV A, HLS1644 Rev. 6, 020002 '8250L Lighting column' details received 18 November 2021, Philips Lighting Opti Vision LED gen3 (BVP527 2210/757 BV A35-WB D9 T25 50K) details and Drainage Plan 101 Rev P2
3. No development above ground level shall be commenced until precise details of the types and colours of the external materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

4. Prior to the first use of the external lighting / floodlighting hereby permitted within the development site (as included on HLS1644 Rev. 6, 020002 '8250L Lighting column' details received 18 November 2021, Philips Lighting Opti Vision LED gen3 (BVP527 2210/757 BV A35-WB D9 T25 50K) details), the light sources shall be so positioned and shielded, in perpetuity, to ensure that it is not directed at into windows of neighbouring residential properties are not affected by dazzle and/or glare.
5. The sustainable drainage scheme as shown on approved Drainage Plan 101 Rev. P2 shall be fully implemented and thereafter maintained in perpetuity in accordance with the Maintenance and Action Schedule dated 27th October 2021.
6. The flood lights hereby permitted shall only be used between the hours of 7:45am and 5:15pm on any one day.
7. No amplified music shall be played within or on the boundary of the Multi-Use Games Area.
8. The of the Multi-Use Games Area use shall be used and supervised only by the school and its associated sports clubs for activities between 8:00am and 5:00pm. The games area shall not be hired out to any third party.