



Appeal Decision

Site visit made on 23 September 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/E0345/W/22/3298800

The Abbey School, 17 Kendrick Road, Reading RG1 5DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Lucas, The Abbey School, against the decision of Reading Borough Council.
 - The application Ref 210714, dated 5 May 2021, was refused by notice dated 1 March 2022.
 - The application sought planning permission for Development of an all weather playing field with floodlights and fencing without complying with conditions attached to planning permission Ref 12/01629/FUL, dated 23 January 2013.
 - The conditions in dispute are Nos 6 and 13 which state that:
"Condition 6 – The hedge on the eastern boundary (Kendrick Road boundary) shall be maintained at least its current height (c3 metres) and density (c1.5 metres)".
"Condition 13 - The floodlighting for the Artificial Grass Pitch shall not be used outside the hours of 9:00 and 19:00 Monday to Friday, 09:00 and 17:00 on Saturday; and 10:00 and 17:00 on Sunday and public holidays".
 - The reasons given for the conditions are:
"Condition 6 – As the hedge in its current form would provide mitigation for the proposed development by screening the new playing field, fencing and lighting columns from views by the public living in or passing through the conservation area".
"Condition 13 – To balance the increased use of the sports pitch that the floodlighting will allow with the need to protect the residential amenities of neighbours".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant is seeking to vary condition 6 to enable the removal of a section of hedge, on the eastern boundary of the site, and allow for it to be replaced by a dwarf wall with metal railings above. The variation to condition 13 is to enable the floodlights at the site to be used for longer periods. During the application the appellant revised the hours for which use of the floodlights was being sought to the following: Monday to Friday 09:00 to 21:00, Saturdays 09:00 to 21:00, and Sundays and Public Holidays 10:30 to 20:30. Accordingly, I have determined the appeal on this basis.

Main Issues

3. In respect of condition 6, the main issues are whether the condition is reasonable and necessary in the interests of the character and appearance of the area with specific regard to the Kendrick Road Conservation Area (CA); and

biodiversity. In respect of condition 13, the main issues are whether it is reasonable and necessary in the interests of the living conditions of neighbouring occupiers with specific regard to noise, disturbance, and light; and protected species with specific regard to bats.

Reasons

Condition 6 – Character and Appearance and the CA

4. The eastern boundary of the appeal site comprises a substantial length of frontage along Kendrick Road and contains a mature, high hedge. Kendrick Road has historic interest as a planned mid-19th Century urban road, that was designed as a tree lined avenue. The architectural quality of numerous buildings along Kendrick Road, alongside the pleasant verdant quality of the street combine to contribute positively to the significance of the CA.
5. The hedge subject of the appeal condition also provides a significant level of greenery, due to its substantial length and overall height. It therefore helps to soften the streetscene and reinforces the area's verdant character. Despite some areas being thin, it appears to be of a generally healthy condition.
6. There is some uncertainty as to whether the hedgerow is historic. It is also noted that the hedge is not specifically recognised within the Kendrick Road Conservation Area Character Appraisal (CA appraisal) as an important feature. Nevertheless, I still find that the hedgerow positively contributes to the verdant character of the CA. Furthermore, the CA appraisal does reference the previous loss of front walls and hedging and indicates the need to control boundary detailing where appropriate.
7. A substantial extent of hedgerow (approximately 64m in length) is proposed to be removed. The proposed replacement boundary treatment would reflect that of the school's main campus opposite. It would therefore add an element of continuity to the streetscene and the CA. Despite this, the loss of what would be a substantial amount of greenery would have a detrimental effect on the character and appearance of the streetscene. Accordingly, the proposal would fail to preserve the character and appearance of the CA.
8. The appeal scheme includes replacement hedge planting to the western boundary of the site of an equivalent length to that which would be removed from the site's eastern boundary. This could be suitably secured by condition should planning permission be granted. However, this would not mitigate the visual harm that the proposal would cause to the frontage of Kendrick Road specifically and its inherent qualities as I have defined them.
9. Given the scale and nature of the proposal, it would cause less than substantial harm to the CA. Nevertheless, any harm to the significance of a designated heritage asset requires clear and convincing justification and in accordance with paragraph 202 of the National Planning Policy Framework (the Framework), I must weigh the harm against the public benefits of the proposal.
10. The new boundary treatment would unify the appearance across the school campus. This is suggested to improve navigation and safety for pupils, whilst also ensuring the school's facilities are recognised to prospective students/parents. However, I find that these would be of limited benefit for the general public, whilst I am also unconvinced that the scheme would be significantly aid pupil's wayfinding. The proposal is also deemed to provide

enhance safety through allowing better surveillance of the site. However, I find it unlikely that school children would not have some level of on-site supervision when utilising the playing area. The increased level of safety provided from additional surveillance from school buildings on the opposite side of the road is also likely to be somewhat limited. Therefore, overall, I find the public benefits to be modest and not sufficient to outweigh the identified harm.

11. Condition 6 is therefore reasonable and necessary in the interests of the character of the area, including the Kendrick Road CA. Without the disputed condition the proposed development would be contrary to Policies EN1, EN3 and CC7 of the Reading Borough Local Plan (adopted 2019) (Local Plan). Together these policies, amongst other matters, seek to ensure that developments are compatible with and respect their context, as well as conserve or enhance heritage assets. The proposal would also conflict with Local Plan Policy EN14, which amongst other matters, seeks to protect hedges from removal where they are of importance.
12. Furthermore, the proposal would fail to meet the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the requirements of the Framework in respect of conserving the historic environment.

Condition 6 –Biodiversity

13. Local Plan Policy EN12 states key elements of the Council’s mapped green network, shall be maintained, protected, consolidated, extended, and enhanced. The green network is identified as including priority and Biodiversity Action Plan habitats. Furthermore, the policy also outlines that development should not result in a net loss of biodiversity and wherever possible should provide a Biodiversity Net Gain (BNG).
14. The hedge in question is a priority habitat as defined by the Framework, while the Council’s ecologist identifies that it provides opportunities to be used by insects, nesting and foraging birds, small mammals including hedgehogs and bats. The Council has also designated it as part of a ‘Green Link’ on its policy map.
15. The appellant’s Preliminary Ecology Appraisal 2021 (PEA) states that the hedgerow itself is species poor. However, it goes on to find that it, along with notable areas of brash, leaf litter and piled grass clippings at its base is of a higher ecological value than much of the site. This is due to the shelter, nesting, and foraging opportunities it provides to a range of species. Therefore, even though no species were identified as using the hedge for habitat during surveys, it remains a potentially suitable habitat for a range of species.
16. The findings of the PEA are disputed by the Council. Evidence has been provided that indicates that it is instead a species rich hedgerow, with a much greater variety of species than identified within the PEA. No robust refutation of these findings has been provided by the appellant. Additionally, the Council has also undertaken a BNG calculation for the proposal using the DEFRA 3.1 metric. This suggests that despite the compensatory measures put forward, the proposed development would result in a 23% net loss in biodiversity units. The calculation results have also not been contested by the appellant.

17. There is not yet a mandatory legislative requirement to deliver BNG and therefore no legal requirement to produce a BNG calculation. Despite this, Policy ENV12 requires there to be no net loss of bio-diversity, whilst the DEFRA 3.1 metric used by the Council is a recognised approach to calculating BNG. Therefore, in the absence of any robust challenge to the Council's findings, including a BNG calculation from the appellant, I am not persuaded that the proposed replacement of the hedge would suitably address its loss.
18. Condition 6 is therefore also found to be reasonable and necessary in the interests of biodiversity. Without the condition, the proposal would not protect or enhance a priority habitat. Additionally, notwithstanding the suggested enhancements to biodiversity put forward by the appellant, I find that the proposed development would also harm the net biodiversity of the site. Accordingly, it would conflict with Local Plan Policies EN12 and EN14. Together these policies, amongst other matters, seek to protect the authority's green network, including protecting hedges from damage or removal where they are of importance.

Condition 13 – Living Conditions

19. The proposal seeks to extend the usage of the floodlights in the evenings by an extra 2 hours during the week, an extra four hours on a Saturday and a further three hours on Sundays and Bank Holidays. There is no restriction on the existing hours of use of the playing field. The proposed increase in use of the floodlighting would though effectively also extend the period in which the playing field could be used, particularly during reduced sunlight hours in the winter.
20. The appellant identifies that no complaints have been received regarding noise or light glare. However, from the evidence before me, a significant number of residents have concerns about these issues based on their current experience of the site's usage.
21. The appellant has provided a noise assessment that appears to have been undertaken by a suitably competent specialist. This included a noise survey to determine the prevailing ambient noise levels at the closest noise sensitive receptors. A further survey has also been undertaken during use of the playing pitch. It advises that the second survey was based on the assumed highest potential level of activity noise at the site (an 8-a-side football practice session).
22. The noise assessment, in essence, concludes that under reasonable worst-case use conditions, the predicted change in evening ambient sound levels at nearby receptors would be an increase of some 2dB. This would give rise to a 'minor impact' and in respect of the government's Planning Practice Guidance (PPG) this equates to a no observed adverse effect level.
23. The noise assessment further identifies that when activity is taking place at the site, noise levels experienced within garden/outdoor amenity area exceed World Health Organisation (WHO) guidelines at the worst affected receptor by 5dB. However, it is highlighted that the relevant guidelines are already being exceeded. Furthermore, it is considered that any increase in activity at the site, as a direct result from the current proposal, is only likely to take place during winter evenings. As such, this is unlikely to be a time when neighbouring outdoor amenity spaces are in frequent or prolonged use.

24. The Council has not challenged the methodology or findings of the noise assessment. In refusing the application on noise grounds, it has indicated that ambient noise levels would be increased and there would be an impact due to the potential increased hours of use of the site. However, limited consideration has been given to the change in level of noise and its associated harm.
25. Despite the concerns raised by nearby residents, based on the technical evidence before me, the potential increase in usage of the appeal site would not give rise to significant adverse effects on the living conditions of neighbouring occupiers, in regard to noise.
26. The appellant refers to a lighting report that was produced for the original planning application. A copy of that technical report has not been provided. However, the Council's evidence indicates that concerns relating to glare and light trespass formed part of the determination of the application, and contributed to the need for the condition restricting usage.
27. It has been suggested that the direction of the floodlights ensures that light is only penetrated on the playing pitch, with no glare or light spill beyond the boundary that would impact on living conditions. However, this does not square with the experience expressed by neighbouring residents. Nor does it reflect the Council's recognition that Condition 13 was originally imposed, in part, due to concerns regarding lightspill and glare. Accordingly, the evidence before me suggests that there would still be some glare experienced by neighbours.
28. From my observations on site, there were several neighbouring properties that were located near floodlights. In particular, the residential properties within Selva Court, which have windows overlooking the playing pitch. Due to this close relationship, occupiers would be very likely to experience significant levels of light pollution from the site, including glare off of the playing pitch.
29. It has been put to me that the floodlights would be turned off before many residents go to bed. Some nearby residents have not necessarily objected to the revised hours of use. Despite this, the proposal could enable an increase in use of the floodlighting and playing pitches for up to seventeen hours a week. This would be an extensive period in which to experience glare and light pollution and would impinge on the resident's enjoyment of their own homes. The proposal would therefore result in considerable harm to the living conditions of neighbouring occupiers.
30. The appellant indicates that the floodlights are of the same design (but have a reduced average lux), as floodlighting that is used at Reading Hockey Club (RHC), which hosts evening training sessions until 9pm. However, I have no details of the context of RHC, including that site's relationship to neighbouring properties, or the context in which its floodlights were approved. Therefore, I do not find this to weigh in favour of the current proposal.
31. The proposal would provide social benefits, most notably health benefits through increasing participation in sporting activities. However, I am not persuaded that this would overcome the harm to neighbouring residents from the increased glare of the floodlights.
32. Despite my findings I regard to noise, the extended hours of floodlight usage would have a detrimental impact on the living conditions of neighbouring residents through increased light pollution and glare. Accordingly, Condition 13

is reasonable and necessary to safeguard the living conditions of neighbouring occupiers. Without the disputed condition the proposed development would be contrary to Policy EN16 and CC8 of the Local Plan, which amongst other matters, seek to prevent harm to residential properties from artificial lighting. The proposal would also conflict with the Framework in respect of promoting high standards of amenity.

Condition 13 – Protected Species

33. I understand that the Condition 13 was originally imposed, in part due to concerns relating to the floodlights illuminating boundary features likely to be used by commuting bats. Furthermore, both the Council and the appellant's PEA identify that the eastern hedgerow on the site represents a suitable foraging habitat for bats. Anecdotal evidence has also been provided by third parties regarding the sighting of foraging bats along the hedgerow.
34. There are further linear features in the near vicinity of the site that would also offer similar foraging opportunities for bats, whilst the area is an urban environment with other sources of light. However, the appellant's PEA has not specifically considered the impact of flood lighting on the hedgerow should it be retained, while no bat surveys appear to have been undertaken. In the absence of such information, I am unable to rule out that the hedgerow may be an important feature that is routinely used by bats for foraging.
35. I therefore deem that there is a realistic prospect that the increased use of the floodlights could cause harm to protected species, namely bats. Accordingly, the condition is deemed reasonable and necessary. Without the condition the proposal would conflict with Local Plan Policy EN12, which amongst other matters, provides protection for protected and priority species and their habitats. The proposal is also contrary to the Framework in respect of conservation and enhancement of the natural environment.

Other Matters

36. I note the appellant's frustrations with the way the LPA dealt with the application, particularly, the lack of feedback that was received on ecology matters. However, this is a matter for the Council to resolve. I have determined the appeal on its own merits.

Conclusion

37. For the reasons given above, having regard to the development plan and all material considerations, the appeal should be dismissed.

Lewis Condé

INSPECTOR