



Appeal Decision

Site visit made on 25 October 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/J3720/W/22/3301706

The Arc School, Vicarage Road, Napton-on-the-Hill, SOUTHAM, CV47 8NA

- 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 C Kennedy - Kedleston Group Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 21/02965/VARY, dated 22 September 2021, was refused by notice dated 20 April 2022.
 - The application sought planning permission for the removal of 2 no. external teaching units, provisional of 3 No. new external teaching pods, 1 No. new external classroom unit and associated external play area without complying with a condition attached to planning permission Ref 20/00927/FUL, dated 26 August 2020.
 - The condition in dispute is No 2 which states that:
The development hereby approved shall be carried out in accordance with the following plans and drawings: Proposed Site Plan 376-0 Revision B, Plans and Elevations PBSE6985 and New External Classrooms 376-04. The development shall also be carried out in accordance with the Design and Access Statement unless otherwise required by conditions attached to this permission.
 - The reason given for the condition is:
To define the permission and to ensure that the development meets the design quality and environmental requirements of Policy CS.9 of the Stratford-on-Avon District Core Strategy 2011-2031.
-

Decision

1. The appeal is allowed and planning permission is granted for the development described as "the removal of 2 no. external teaching units, provisional of 3 No. new external teaching pods, 1 No. new external classroom unit and associated external play area," without complying with condition No 2 attached to original planning permission Ref 20/00927/FUL, dated 26 August 2020, at The Arc School, Vicarage Road, Napton-on-the-Hill, SOUTHAM, CV47 8NA, in accordance with the terms of the application Ref 21/02965/VARY, dated 22 September 2021, but otherwise subject to the conditions in the attached schedule.

Preliminary Matters

2. The original planning permission granted permission for development within the grounds of the Arc School. The proposal with this application is to vary the plans condition (condition 2) to allow for a revised layout along with larger class pods.

3. The Council refused the application to vary the condition on the basis of the repositioning of the wet pour play area, which has already been installed towards the northern boundary. It is the impact to neighbour amenities from the play area, including for the occupiers of Walnut Tree House, which was the reason for refusal by the Council.
4. This appeal only relates to the play area surfacing and not the equipment, which I understand has been subject to a separate planning application with the Council. There was play equipment, however, on site which I observed.

Main Issue

5. The main issue is the effect of the development on the living conditions of those living at neighbouring dwellings to the play area.

Reasons

6. The play area is within the grounds of the school, near to existing school rooms. The play area is also close to the boundary with the rear of Walnut Tree House's plot.
7. At the time of my site visit there were some views through the slatted fence and the boundary vegetation which allowed views of this neighbouring house at relatively short distance. However, to get a clear view through the slats in the fence a child would likely need to be close to the fence, probably on the boundary path rather than the play area. There could be views from the top of play equipment into the neighbours' house, but the play equipment is not part of this appeal.
8. In any case, the play area is part of the school grounds where children could spend their break time whether the soft surface was installed there or not. There may be some additional draw to this area of the school grounds, as a result of the play area surfacing, but the evidence before me does not indicate that privacy has been significantly reduced to an unacceptable level since the play area installation.
9. Similar to the issue with loss of privacy, the evidence does not indicate that the noise as a result of children playing at break time would be materially louder and more of a nuisance as a result of the play area location. I note that there have been recordings of decibel levels, but it is not fully detailed how often the sound levels were as high as stated. It is also not clear from this evidence of what the sound levels were before at this neighbouring house and garden, when children were playing outside at the school before the play area installation.
10. There may be some more children drawn to the play area location, but I am not persuaded that this has resulted in a noise increase that has unacceptable adverse impacts to neighbour living conditions. If bad or intimidating language is used then this should be a matter for the school to control, but this could happen whether or not the play area is positioned near this boundary.
11. Further to the above, I am also aware that this play area would likely be used mainly in break/lunch times in the school day, and the limited times of day that this area is used would further reduce the potential impact. The play area use would also not be likely in inclement weather.

12. For these reasons it would not be reasonable or necessary in my view to impose a condition to require the school to provide more acoustic or visual screening, though this can be discussed between school and neighbour if they so wish.
13. There have been comments with regard to children behaviour, including the throwing of objects over the fences, but there is no clear evidence that this behaviour is linked to the position of the play area and so has little weight in regard to this appeal.
14. It may be that another location for the play area would have a lesser effect on neighbour living conditions, but I am considering the impacts of the play area location as proposed, which I regard as acceptable in planning terms.
15. For these reasons the revised location of the play area does not have unacceptable adverse impacts to neighbour amenities, to the occupiers of Walnut Tree House, or indeed any other neighbour to the site. The proposal therefore broadly accords with policies CS.9 and AS.10 of the Stratford-on-Avon District Core Strategy and also policies 4, 5 and 12 of the Napton-on-the-Hill Neighbourhood Development Plan. These policies require that development ensures a good standard of living for neighbours, amongst other things. It is also in general accordance with the Development Requirements SPD, Part F (Residential Amenity) with this main issue.

Conditions

16. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
17. The conditions attached have been updated where necessary and there is no requirement for some of the original conditions, such as the standard time limit condition on the commencement of development. Otherwise, the conditions reflect the original list. The updated condition relating to the materials details for the pods, as recommended by the Council, has been included as the original condition required that the pods be retained and maintained as per the agreed materials. The updated condition reflects this.
18. If there are any more of these conditions that have already been discharged, then this is for the appellant and Council to discuss the way forward on this matter.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed, subject to the conditions in the following schedule.

Mr S Rennie

INSPECTOR

SCHEDULE - CONDITIONS:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings –
Proposed Site and Classroom Layout Plans 376-03 Revision F;
Plans and Elevations PBSE6985; and
New External Classrooms 376-04 Revision A.
- 2) The two pods hereby approved shall be retained and maintained in accordance with the materials details approved pursuant to discharge of condition application DISCN/00614/21.
- 3) Prior to the installation of the New Classroom Building as detailed on approved drawing no. Plans and Elevations PBSE6985, a schedule of materials and finishes (including samples and trade descriptions/brochure details where appropriate) of materials to be used in the construction of the external surfaces of the New Classroom Building shall be submitted to and approved in writing by the Local Planning Authority.

The New Classroom Building shall be constructed in accordance with the approved details and completed before the New Classroom Building is first used and thereafter shall be retained and maintained in that form, unless the Local Planning Authority gives prior written approval to any subsequent variation.
- 4) Within 3 months of the date of this planning permission, a detailed plan indicating existing site levels and proposed finished ground floor levels of the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed plan to be submitted shall include the following details:

(a) levels of the existing site, together with indication of a recognised fixed datum point from which levels can be verified during the course of development and at completion;

(b) the precise finished ground floor levels of the classroom building relevant to the existing development on the boundary of the site (including the adjacent highway and adjacent properties) including section drawings at a scale of 1:50;

(c) levels of all accesses to include pathways, driveway, steps and ramps.

Thereafter, the development shall be carried out, completed and maintained strictly in accordance with the approved details and thereafter so retained as such.
- 5) Within 3 months of the date of this planning permission, a scheme for foul and surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details within 3 months of the date of their approval and shall be retained thereafter.
- 6) Within 3 months of the date of this planning permission, details to include trade descriptions of the materials to be used in the areas of approved hardstanding shall be submitted to and approved in writing by the Local

Planning Authority. The approved scheme shall be carried out concurrently with the development and completed within 3 months of the date of this planning permission.

- 7) No building that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.
- 8) Prior to first use of the New Classroom Building hereby permitted, details of a close boarded fence (including any associated netting), with no gaps and with a surface density of at least 10kg m², along the eastern and southern boundary of the site shall be submitted to the Local Planning Authority for approval in writing. The fence shall be installed as per the agreed details prior to first use of the New Classroom Building and shall be maintained in a sound condition in perpetuity.
- 9) The development hereby permitted shall be carried out in accordance with the Methodology set out in the Written Scheme of Investigation submitted with the application by Archaeology Warwickshire dated March 2020.
- 10) No further demolition, site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto site until the Tree Protection Scheme set out in the submitted Arboricultural Impact Assessment by Urban Green dated March 2020 has been implemented.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.

Furthermore, the following work shall not be carried out within the Root Protection Area (RPA) of any retained tree or hedgerow, except with the prior written approval of the Local Planning Authority:

- (i) No materials, equipment, machinery or structure shall be attached to or supported by a retained tree or hedgerow, nor stored or stacked within said RPA;
- (ii) No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a RPA that seepage or displacement could cause them to enter a RPA;
- (iii) No fires shall be lit within any RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of any retained tree or hedgerow within or adjacent to the site as per the requirements of B55837 :2012;
- (iv) Levels shall not be raised or lowered in relation to the existing ground level within the RPA of any retained tree or hedgerow;
- (v) No roots shall be cut, trenches dug or soil removed within the RPA of any retained tree or hedgerow;
- (vi) No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of any retained tree or hedgerow; and

(vii) No vehicles shall be driven over the area within the RPA of any retained tree or hedgerow.

End of Conditions