
Appeal Decision

Site visit made on 4 September 2023

by Edwin Maund BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 September 2023

Appeal Ref: APP/X4725/W/22/3313422

Wakefield College Thornes Park Centre, Horbury Road, Wakefield, WF2 8QZ

- 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 Penny Appeal against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 21/02235/FUL, dated 2 August 2021, was refused by notice dated 13 July 2022.
 - The development proposed is Full planning permission for change of use from a F1 (Non-residential institution) to a flexible Class E (offices/ café), F2 (local community use) and Sui Generis Use (Theatre).
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Decision

1. The appeal is allowed, and planning permission is granted for change of use to Class E (offices/ café), F2 (local community use) and Sui Generis Use (Theatre) at Wakefield College Thornes Park Centre, Horbury Road, Wakefield, WF2 8QZ in accordance with the terms of the application, Ref 21/02235/FUL, dated 2 August 2021, and the plans numbered:

15329-051 revision A - Location Plan,

15329-111 - Block M - Proposed Ground Floor Plan,

15329-112 - Block M - Proposed First Floor Plan,

15329-113 - Block M - Proposed Second Floor,

15329-114 - Block M - Proposed Third Floor Plan,

15329-115 revision B - Block C - Proposed Ground Floor Plan,

15329-117 - Block D - Proposed Floor Plans,

15329-110 revision B - Site Layout,

and subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Penny Appeal against City of Wakefield Metropolitan District Council. This application is the subject of a separate Decision.

Procedural Matters

3. In the interests of clarity, I have used the name of Penny Appeal in the Banner headline above as this was the name used on the original planning application forms.
4. The planning application form indicated that the use of the site had commenced, and I could see from my visit, the buildings were in part, already in use. I have, however in assessing this appeal done so on the basis of the submitted plans.
5. In coming to this decision, I have relied upon the floorspace as specified upon the submitted drawings rather than the differing figures that can be found in both the Appellant's and Councils submissions.

Main Issues

6. From all the representations submitted, and my inspection of the area, I find that the main issues are:
 - whether the scale nature or characteristics of the proposed use would be incompatible with the leisure and recreational use of the park which would lead to harm to amenity and enjoyment, and
 - whether the development would result in an intensification of vehicular traffic leading to adverse safety.

Reasons

Amenity and enjoyment

7. The appeal site, the former Wakefield College campus is located within Thornes Park in Wakefield. A highly attractive, well used public space that provides a broad range of informal and formal recreational activities in a parkland setting.
8. Formed from three separate parks which have historically been incorporated together to form the Grade II Registered Park and Garden being a good example of a late 19th and early 20th century urban municipal park.
9. The appeal proposal aims to utilise the former college buildings, located centrally within this attractive landscaped area, located on higher ground within the park. A location which reflects the siting of the former house which had historically been built there, prior to the current buildings being erected.
10. The current buildings range from single to four storeys and are a mix of red brick traditional buildings and more modern flat roofed blocks. The site includes an area of car parking with approximately 347 spaces.
11. The Council acknowledge that the use of the buildings for educational purposes was not limited by way of any formal conditions and was able to operate without restriction on its opening or closing times, at weekends or during the traditional holiday periods, although both main parties recognise that this was not the case in practice. I do, however, give this fall back position weight in coming to my conclusions.

12. The amenity and enjoyment of the park is patently important for many people as can be seen by the many representations expressing their concerns over the potential effects that this proposal may have.
13. I consider that this enjoyment is based in part on the quality of the park, the landscaped setting and the broad range of activities that co-exist. Providing the public with many opportunities to access safe, attractive recreational facilities.
14. In refusing permission, the Council indicate that the scale, nature and characteristics of the proposed development would be incompatible with the leisure and recreational use of the park.
15. The scale of use is set by the existing buildings, no additions are proposed to increase floor space. The current access arrangements are proposed to be retained and there is little evidence before me about what the characteristics are of the proposed uses that might be so incompatible as to cause harm to the enjoyment or use of the park.
16. Nevertheless, I appreciate, that the range of activities that the Use Classes Order now includes within Class E is broad and there may be unintended consequences of allowing the full remit in this location, which is neither a town centre or a traditional high street.
17. During the consideration of the application by the Council, agreement had been reached with the Appellant to limit the uses to Class E(b) and E(g)i and F2(b).
18. I agree that this is a sensible and proportionate response and would give the Council appropriate controls in the event further uses were to be sought in the future.
19. I consider that the full range of activities within Use Class E could have the potential to change the character of this area of the park and have an adverse effect resulting in harm to the enjoyment of the park. This, I believe can be appropriately controlled by condition limiting the range of uses. In these circumstances the enjoyment of the park and the amenity of it could be safeguarded.
20. Consequently, with this condition in place, I find no conflict with either policy CS10 of the Local Development Framework (LDF) Core Strategy (CS) or policy D9 of the LDF Development Policies Document (DPD) which seek to encourage safe design and environmental quality. Nor do I find any conflict with paragraph 130 of the National Planning Policy Framework (NPPF) (2021).

Whether the development would result in an intensification of vehicular traffic leading to adverse safety.

21. Vehicular and pedestrian access is gained by way of an existing access road connecting to Horbury Road, part of the highway which acts as a circulatory route through the town, as well as a secondary route which links through to Thornes Road.
22. The main access passes, at the entrance through gate piers which restrict the width of the road, prior to the road carrying on into the site and going between a skate park and children's play area located on opposite sides of the road.
23. A footway is available on both sides of the road at the access point and into the park for approximately 20m, where the footway on the eastern side of the road

terminates. With the footway on the opposite side continuing all the way to the former college buildings.

24. As a college both students and staff were free to come and go and there is no evidence before me that the previous use created any conflict with the use of the park as a recreational and leisure facility for the people of Wakefield. Indeed, several parties refer to the complimentary nature of the college use. With other activities that occur periodically within the park grounds, taking advantage of the parking area which is included as part of the appeal site. This was done by agreement and was an informal arrangement between the parties.
25. Despite the inference that the new uses would increase traffic and thereby impact on pedestrians, and in particular be a risk to children playing, this is not supported by the Council's own highway advice who forecast a reduction in the overall numbers of vehicular movements.
26. Additionally, the Appellant has prepared both a Travel Plan and Car Park Management Plan to encourage and manage sustainable travel. Both of these plans further support the use of the existing buildings in a controlled and manageable way. The requirements of these plans can be secured by condition.
27. Following the decision by the Council, the Appellant undertook a Transport Assessment, which also predicts a reduction in the traffic generation relative to the historic and authorised use of the buildings for education.
28. While the floorspace figures quoted within the Transport Assessment do not tally with those set out on the submitted plans, the overall picture is clear that office use and community use would generate a reduction in traffic movements.
29. I accept that the pattern of movements may well be different from that historically associated with the college, but there is nothing before me that provides clear evidence that this would create conditions that would be unsafe, either for users of the appeal site or users of the park.
30. The evidence set out within the Transport Assessment and from the Council's Highways Officers I find this compelling.
31. I understand that the road within the park is not part of the adopted highway, and consequently neither the speed limit nor the yellow lines are enforceable in the way they would be if this were to be the case. This does not however, demonstrate that the access arrangements are unsuitable, particularly when the predicted number of movements is forecast to reduce.
32. Evening and weekend activities may well create a different range of uses operating at the park, but I see no reason why the change of use would not be compatible, particularly where these uses are controlled by a condition as I have indicated earlier.
33. In these circumstances I find no conflict with Policy D9 or D14 of the LDF DPD which seek to ensure design and access arrangements are safe for new development.
34. Nor do I consider there to be a conflict with paragraph 111 of the NPPF which advises that "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety*" or

evidence that the uses proposed could result in impacts upon the road network which could be regarded as severe.

35. I conclude that the second reason for refusal has not been sustained as the empirical evidence provided shows there to be a reduced level of traffic movements as opposed to an intensification as asserted. I therefore do not find there is a conflict with either policies D9 or D14 of the LDF DPD or paragraph 111 of the NPPF.

Other Matters

36. Interested parties made representations with regard to a fear of crime or an increase in crime in the event that the proposal was to be allowed. I note that in response to the planning consultation the Neighbourhood Policing Team were supportive of the scheme considering that the occupation of the buildings would be likely to increase security and provide greater surveillance. Consequently, I do not find this matters counts against the scheme.
37. The relationship of the appeal site to listed buildings and to the ancient monument of Wakefield Castle have been brought to my attention. There being no physical works proposed as part of the development, and no evidence provided that there would be any harm to these heritage assets, I do not consider they have a material bearing on my decision.
38. Concerns have also been expressed over permitted development rights and the extent that these might allow for other uses which could adversely affect the peace and tranquillity and broader enjoyment of the park. I agree that there is a risk without appropriate safeguards in place and this could have an undesirable effect on the quality and enjoyment of the park. I therefore propose to remove permitted development rights by way of a condition.
39. The potential for 24 hour opening hours for the operation of the premises, I consider an unlikely scenario, however, without restriction this would be possible. The access through the park is illuminated by way of streetlamps on one side of the access road. With restrictions in place on the limitation of uses as indicated, I see no reason why any further restriction on opening hours could be justified, or what purpose this might achieve. I therefore do not seek to impose such a condition.
40. Inappropriate advertising could result in a change in character, or without appropriate siting, limitation on numbers or sizes result in the possibility of a plethora of advertisements which I agree should be controlled in light of the location within the registered park and garden. I propose a condition accordingly.
41. The presence of wildlife within the park grounds has also been referenced, and while no specific evidence has been presented that demonstrates any harm to either protected species, or a designated habitat. I do consider that having controls on external illumination would be sensible and recommend a condition accordingly.
42. The potential of the closure of the gates or shared parking for community uses are not matters for me to consider in respect of the planning issues covered by this appeal. They are private matters.

Conditions

43. In addition to those already referred to above,
44. Safe access and egress to and from the site, relies in part on having good management of parking facilities, and the opportunity to travel by means other than the private car. I therefore propose conditions to ensure the car park is managed by way of the submitted Car Park Management Plan (CPMP) and that facilities for secure safe and cycling are provided.

Conclusions

45. The proposed change of use to Class E (offices/ café), F2 (local community use) and Sui Generis Use (Theatre) would be contained within the existing buildings. With the conditions set out below in place, I consider that there would not be a conflict with the policies of the Development Plan or the NPPF. For the reasons given the appeal is allowed.

Edwin Maund

INSPECTOR

Schedule of Conditions

- 1) No external artificial lighting shall be erected within the site, unless and until details of the size, location, orientation, lighting level and any associated fixing apparatus have first been submitted to and agreed in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details and maintained whilst ever it remains in situ.
- 2) The use hereby approved shall be carried out in full compliance with the submitted Car Park Management Plan (CPMP) written by Exigo Project Solutions and dated 21 January 2022. The site shall thereafter be operated in accordance with the CPMP which shall be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
- 3) Within 3 months of the date of the permission hereby granted a scheme for the provision of secure cycle and motorcycle parking shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the submitted scheme shall be implemented in accordance with a timetable contained therein and made available for use thereafter for the lifetime of the development.
- 4) Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) the uses of the building/site shall be restricted to those falling within use classes E(b), E(g)(i) and F2(b) of schedule 2, of the Town and Country Planning (Use Classes) Order 1987 (as amended) hereby permitted at the site.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order), no development included within Schedule 2, Part 2 Classes A and C, Part 3 Classes MA and O and Part 7 Classes A, E, F and G of that Order shall be carried out on any part of the buildings and/or land, identified within the red line outlined upon submitted drawing 15329-110 revision B.
- 6) Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (or any Order revoking or re-enacting that Order), no advertisement included within Schedule 3, Part 1 shall be carried out on any part of the buildings and/or land, identified within the red line outlined upon submitted drawing 15329-110 revision B.