



Appeal Decision

Site visit made on 24 January 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/P1133/W/23/3317094

Unit 1, King Charles Business Park, Old Newton Road, Heathfield TQ12 6UT

- 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 The Greater Horseshoe School against the decision of Teignbridge District Council.
 - The application Ref 21/02681/FUL, dated 11 November 2021, was refused by notice dated 26 August 2022.
 - The development proposed is retention of use of light industrial building (Class E) as educational use (Class F1) and insertion of new windows to first floor of side elevation.
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Decision

1. The appeal is allowed and planning permission is granted for retention of use of light industrial building (Class E) as educational use (Class F1) and insertion of new windows to first floor of side elevation at Unit 1, King Charles Business Park, Heathfield, TQ12 6UT in accordance with the terms of the application, Ref 21/02681/FUL, dated 23 November 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan, Ref 21141- LHC-00-XX-DR-A 0101 Rev P1 dated 05/11/21
 - Site Plan, Ref 21141-LHC-00-GF-DR-A-0102 Rev P1 dated 05/11/21
 - First Floor Plan, Ref 21141-LHC-00-01-DR-A-0202 Rev P1 dated 05/11/21
 - NW Elevation, Ref 21141-LHC-00-ZZ-DR-A-0402 Rev P1 dated 05/11/21
 - 2) The education use (Class F1) hereby permitted shall only be operated in the following manner:
 - The site shall not be used for education purposes outside of school term times; and,
 - No more than 12 pupils (and associated members of staff) shall be present on the site at any one time.
 - 3) Unless within 3 months of the date of this decision a Travel Plan is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the site for the purposes of such use shall be removed until such time as a scheme is approved and implemented. The Travel Plan shall contain details of the following:

- Parking arrangements;
- Provision of car sharing schemes;
- Details of cycle and/or pedestrian routes near the site;
- Details of the ways in which pupils will arrive at/leave the site with or without supervision; and
- Appointment of a Travel Plan Co-ordinator to oversee implementation of any measures detailed in the Travel Plan.

If no scheme in accordance with this condition is approved within 12 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the site for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved Travel Plan specified in this condition, it shall thereafter remain in operation.

Preliminary Matters

2. The description was amended slightly from that set out in the original application form. In the interests of consistency, I have taken the description of development from the Council's decision notice.
3. The application form also details that the educational use of the premises first occurred on 1 November 2020 and has been ongoing since then, and indeed was in use as such at the time of my site visit. I have assessed the appeal on this basis.

Main Issues

4. The main issues are: (a), whether the use of the premises is acceptable, having regard to the safety of its users, and (b), whether the use of the premises as an educational establishment is appropriate, having regard to the accessibility of the site's location.

Reasons

User safety

5. The premises is an end of terrace, two storey commercial unit, of a typical 'boxy' vernacular, albeit with more glazing and features on its principal elevation facing towards the car park. Despite being on the end of terrace and thus close to the estate road and Old Newton Road to the rear, the premises is set down and is largely enclosed behind a grass embankment and has relatively featureless side and rear elevations. Prior to the change in use under this scheme, the premises was used as an office, with fittings and furniture indicative of a call centre use.
6. The premises is used as an independent educational establishment as one of the 3 sites operated as part of *The Greater Horseshoe School*. The main school site is on Little Bovey Lane, the adjoining road, a short distance from the appeal site. The appeal premises provides around 5 classroom spaces which are used for either one-to-one or small group sessions, largely focussing on music, media and other creative outlets. An additional 2 spaces would be created by the proposals in the first floor through subdivision.

7. From the evidence, the premises lies within the consultation zone of multiple hazardous installations for which the Health and Safety Executive (HSE) has to be consulted. Given the location of the site and the range of the consultation zones identified in Appendix 1 of the Council's Statement, the location of the site is relatively centrally located within the inner concentric ring of one of the installations, which suggests it is at high risk. The HSE indicate that the building is an educational premises which is a 'relevant building' for its consultation purposes, and that in this case, there are sufficient reasons on safety grounds to advise against the grant of planning permission. In the absence of any mitigation that would reduce the risks posed to the users, the Council have adopted the position advanced by HSE in its refusal.
8. The Appellant promotes an alternative scenario where the premises is able to change use within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO), to either a creche, day nursery or day centre without the need for planning permission and without any planning conditions limiting the number of young persons present. This is a relevant alternative, though not relied upon as a fallback.
9. The previous intensive office use of the premises as an office is also highlighted as one which accommodated a high number of employees on site, exceeding those on site on any given school day. Whilst only 3 pupils were on site at the time of my visit, it is feasible that a higher number could be accommodated. However, the Appellant has offered a condition restricting the number of pupils on site at any one time to a maximum of 12. This is a small number, though I note it would also attract a modest additional number of teaching and supervisory staff. Further restrictions are offered to ensure that the site were not used at weekends and during the school holidays, which also helps to minimise the risks.
10. I understand the unease that comes from putting the lives of young people at risk, in fact, the lives of anyone, young or old. However, I have also seen the evidence basis about how the educational facility at the appeal site is making a real difference to those same young people. The appeal premises is serving a particularly useful purpose and, taking account of the scale and nature of the proposed use and the mitigation offered to condition the maximum number of users, I consider that the location of the premises is acceptable, having regard to user safety. The proposal therefore complies with Policy S1 of the Teignbridge Local Plan (2014) (TLP). This Policy requires the application of sustainable development criteria, taking account of the social, economic and environmental benefits of the proposal, its scale and magnitude of impact and any associated mitigation, including the impact from existing or committed developments on the health, safety or amenity of occupants or users. For similar reasons, the proposal adheres to the National Planning Policy Framework (the Framework) which seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Accessibility

11. The established employment site of King Charles Business Park has footways alongside the estate road. The estate road is clearly designed to be used by vehicles and heavy goods vehicles. Old Newton Road which leads to the estate has only one footway and the main school site is based along a nearby rural

road which is absent of footways. I did however note the existence of a local bridleway across a wooded area to the north, accessible from within the estate. Coincidentally, this bridleway can be used to access the main school site on foot.

12. The School has arrangements in place for staff to accompany pupils between the site and the main school site. Albeit limited, the evidence suggests that this is either by shuttle vehicle kept on the main school site or by walking through the nearby bridleway with staff supervision. Given the limited distance between the two, both of these options are acceptable. I also envisage that some journeys are made between the pupils' home addresses by private vehicle, perhaps more commonly than would be the case if it were a mainstream school located within a settlement within easy walking distance. However, given the independent and relatively specialist nature of the school considered in the context of the limited size of this particular facility, I consider that this is acceptable.
13. I accept, as detailed in the Council's evidence, that there are some shortcomings with the pedestrian infrastructure within and leading to the site, particularly in respect of the absence of crossing points and street lighting. However, the school has been operational for a number of years without incident so far. Furthermore, there is an opportunity to secure a Travel Plan to ensure that journeys made by pupils to and from the site (at either end of the school day or lesson, or between school sites) is done either with supervision or with a view to being made as safe and sustainable as possible and documented as such.
14. Overall, I consider that the location of the site is relatively accessible but that a planning condition could be used to secure a Travel Plan and to make the development acceptable in planning terms. Subject to such, I conclude that the premises would be suitable as an educational establishment is appropriate, having regard to the accessibility and safety of its location. The proposal therefore complies with Policy S1 of the TLP, which requires the application of sustainable development criteria, in terms of the accessibility by walking, cycling and public transport.

Other Matters

15. The insertion of the proposed windows in the side elevation would positively change the appearance of the unit, albeit modestly, and would enhance the internal environment for users of the first floor rooms. The Council has not raised any issue with this particular aspect of the proposal.
16. The Council indicated that the emerging Teignbridge Local Plan 2020-2040 has reached Regulation 19 stage. Though the policies may be capable of attracting some weight at this stage, subject to their level of consistency with the Framework and absence of unresolved objections, the Council has not advanced any policies of such relevance that affect my findings in connection with the main issues.
17. I have considered the tensions between Policies EC2 of the TLP in terms of the loss of employment sites and the support that the proposal would receive under HT2 in terms of the improvement of the educational offer in the area. Overall, my view is that the proposal would be more beneficial than harmful and that these matters are not determinative.

Conditions

18. As the development has already commenced, a statutory time limit condition is not necessary. A condition is necessary in the interests of certainty to stipulate the approved plans.
19. As a means of mitigation and to minimise the number of those exposed to the risks on site, a condition is necessary to limit the number of pupils to a maximum of 12 on site at any given time.
20. In addition to the above, the safety of pupils in relation to travel to and from school and the sustainability of such journeys, give rise to the need for a condition requiring the submission and implementation of a travel plan. As the use has already commenced, the condition has been worded to ensure compliance within reasonable timeframes.

Planning balance and conclusion

21. Having taken into account the nature of the proposal in the context of its surroundings, with the mitigation proposed or capable of being secured by way of planning conditions, I am of the view that the scheme complies with the development plan when taken as a whole. This factor and the acknowledged social and economic benefits that flow from the scheme lead me to a decision that the appeal should be allowed, and that no other material considerations exist to suggest otherwise.
22. For the foregoing reasons, the appeal is allowed.

H Nicholls

INSPECTOR