
Appeal Decision

Site visit made on 23 January 2024

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/Q1445/C/23/3333528

Lancing Preparatory School at Mowden, The Drove, Hove BN3 6LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mark Milling of Lancing College Limited against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice was issued on 17 October 2023.
- The breach of planning control as alleged in the notice is the retention of temporary classrooms in breach of condition 5 of planning permission BH2020/02126 which required the temporary classroom and changing room building to be permanently removed from the site before 30 September 2022.
- The requirements of the notice are to remove the temporary buildings (marked in green on the attached plan) from the Property.
- The period for compliance with the requirements is 12 (twelve) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed with a correction and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary matters

1. There is a minor error in paragraph 3 of the Notice which appears to be missing the word "be" in the third line between the words "to" and "permanently". This is capable of being corrected without causing injustice to any party.
2. Since the Enforcement Notice was issued, the Government has published a new National Planning Policy Framework (the Framework). In relation to the main issues in this appeal, Government policy has not materially changed. As such, the cases of either side have not been prejudiced.

The appeal on ground (a)

3. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. The effect on the character and appearance of the area; and
 - ii. The effect on the usability of the school playing fields.
4. The appeal site is a preparatory school situated off The Drove in Hove. The site incorporates a number of different buildings, including a large modern multi-purpose building towards the north end of the site and two temporary classroom buildings which are situated east of the playing fields. The site is situated within a predominantly residential area of Hove which is suburban in

character, with mainly large detached dwellinghouses within relatively substantial plots.

5. The two temporary buildings were originally approved under reference BH2012/01219 for a period of five years to provide overflow teaching space and changing rooms whilst the new building was constructed. That temporary permission was subsequently extended to September 2020 to allow the new building to be completed and then extended again for an additional two year period due to the Covid-19 pandemic.
6. Temporary planning permission expired in September 2022 and subsequent application for permanent retention of the buildings was withdrawn following concerns raised by the Council and Sport England. An application under reference BH2023/00696 for the retention of the temporary classrooms for a period of ten years; diversion of an existing pathway, installation of cycle parking and installation of safety netting was then refused by the Council on 14 August 2023.
7. It is my understanding that the buildings in question are currently being used as humanities classrooms and are considered by the school to be essential teaching spaces which allow the school to deliver its full timetable. As such the school is seeking through the appeal to retain them for a further period of ten years.

Character and appearance

8. The temporary buildings are relatively small structures situated adjacent to the school cricket pitch. They measure approximately 3.5 metres in height and are approximately 5.5 metres wide. As such they are subservient to some of the larger buildings within the school site but are in a visually prominent location and clearly visible from the main school building and across the playing fields. They are single storey and are very simple, part timber-clad, flat roofed structures which are rather ordinary and unremarkable, but suitable for their function as temporary classrooms. They have been painted in dark green and are partly clad in timber, which helps them fit into the green surroundings. Externally, they appear to be in good condition and have been well-maintained.
9. As temporary classrooms they are typical of what may be expected on a site such as this where there are often temporary buildings sited as and when required to meet temporary classroom or other facilities required to meet the needs of the school curriculum. The buildings are situated approximately 30 metres from the rear entrance into the school grounds along Hove Park Road and only a small part of one of the classrooms is visible from that street when the gates are closed. Otherwise, from outside the site the buildings are well-screened by mature hedges or other boundary features.
10. The appellant argues that the classroom buildings are temporary features and should be assessed as such in design and visual impact terms as they are there out of necessity. I understand that is the case, but they have been there for a significant period of time and permission is being sought for an additional 10 years. As such, they are semi-permanent and therefore over such a long period of time they have had some visual impact on the surroundings. Whilst they remain in good condition at present and are acceptable as temporary features in their surroundings they may degrade over time. Furthermore, they are designed as temporary buildings and have the appearance of simple,

unremarkable structures which are in a visually prominent location within the school site adjacent to relatively open playing fields.

11. Therefore, acknowledging their current limited visual impact I am satisfied that the development is not harmful to the character and appearance of the area, but should they remain in situ for a period in excess of a further 5 years, that may change as they degrade and their effect on character and appearance may increase to a harmful degree. As such, subject to a further temporary period of 5 years, the development does not conflict with Policy CP12 of the Brighton & Hove City Plan Part One March 2016 (LP Part One), Policy DM18 of the Brighton & Hove City Plan Part Two October 2022 (LP Part Two) and the Framework. Among other objectives, these seek to ensure that development proposals demonstrate a high standard of design and make a positive contribution to a sense of place and the visual quality of the environment.

Playing fields

12. The appellant states that there may be a reduction in the cricket outfield over historic dimensions and a reduction in the number of cricket pitches from 8 to 6. However, the school is clear that 6 pitches are more than adequate for the school's sporting needs and that it is very unlikely that junior cricketers would exhaust the capacity of 6 pitches during the season between April and July.
13. There is little evidence to support the school's position in this regard, but I have no clear reason to reject it. Furthermore, it is my understanding that Sport England do not support the proposed cricket square with only 6 pitches. Indeed, Sport England would expect the historical dimensions of the cricket outfield and the number of pitches to be reinstated now that the sport-related justification for the classrooms has been satisfied by the provision of the new multi-use school building that provides changing facilities to serve the playing fields and other school sports facilities. As a consequence of the fact that the retention of the classrooms does not meet any of the specified exceptions to their Playing Pitch Strategy, they object to the retention for an extended period.
14. Policy CP16 of the LP Part One seeks to safeguard, improve, expand and promote access to open spaces (public and private) and in order achieve this the Council will, among other objectives, require the retention of and seek better and more effective use of open space. Policy CP17 relates to sports provision and states that the Council will safeguard, expand, enhance and promote access to facilities and spaces, among other things.
15. The siting of the temporary classrooms results in the loss of part of the playing field and does not meet the specific requirements of the Framework in that it has not been demonstrated that the playing fields are surplus to requirements, or the loss would be replaced by equivalent or better provision, or the development is for alternative sports and recreation provision, the needs of which outweigh the loss.
16. However, the evidence before me is that the school can continue to operate its cricket teams with the remaining pitches and once removed, the land in question could be reinstated to playing field use, including additional cricket pitches and outfield area. In these circumstances where the classrooms are required as a temporary solution to delivering the school timetable and the complexities associated with finding alternative classroom provision within the

school site, an extended period of five years is considered suitable. As such, in this regard I do not find there to be conflict with Policies CP16 and CP17 of the LP Part One and the Framework.

Conclusion

17. For the reasons given above I conclude that the appeal proposal does not conflict with the development plan as a whole, the appeal should succeed on ground (a) and planning permission will be granted.

Formal Decision

18. It is directed that the enforcement notice is corrected by the insertion of the word "be" at the end of the third line between the words "to" and "permanently. Subject to this correction the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of temporary classrooms on land at Lancing Preparatory School at Mowden, The Droveaway, Hove BN3 6LU referred to in the Notice, subject to the following condition:

- 1) The development hereby permitted shall be for a limited period being the period of five years from the date of this decision. The buildings hereby permitted shall be removed and the land restored to its former condition on or before 14 February 2029 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

A A Phillips

INSPECTOR