



Appeal Decision

Site visit made on 23 January 2024

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.03.2024

Appeal Ref: APP/U5360/W/23/3324353

Hackney New School, 317-319 Kingsland Road and 1-9 Downham Road, London E8 4DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to approve details required by a condition of a planning permission.
 - The appeal is made by Hackney New School against the decision of The London Borough of Hackney Council.
 - The application Ref 2020/4036, dated 16 December 2020, was refused on 10 January 2023 and sought approval of details pursuant to condition No 20 of planning permission ref: 2013/1895 granted 18 September 2013, and for which non-material amendment was granted by planning permission ref: 2014/1160 dated 6 June 2014.
 - Planning permission ref: 2013/1895 is for a Redevelopment to create a new secondary school and sixth form (Use Class D1) for up to 700 pupils comprising: demolition of building / structures at 317 Kingsland Road (excluding front wall); erection of a new six storey building facing Kingsland Basin; erection of a new five storey building facing Kingsland Road; erection of a roof extension to create an additional storey, refurbishment and other alterations at 1-9 Downham Road; refurbishment and alterations at 319 Kingsland Road; together with other alterations including provision of refuse and recycling facilities, cycle and disabled parking facilities and areas of hard landscaping.
 - The details for which approval is sought, are the resubmission of details pursuant to amended condition 20 attached to the permission, which states: Prior to the commencement of the relevant part of the development on site, details of secure bicycle storage facilities within the site for 80 cycles, including access arrangements to storage areas, layout, stand type and submission, shall be submitted to and approved in writing by the local planning authority. Such details as approved shall be implemented prior to the occupation of any of the new buildings hereby approved and shall thereafter be retained, unless otherwise agreed in writing by the local planning authority.
 - The reason given for the condition is: To ensure that adequate provision for the safe and secure storage of bicycles is made for occupants and visitors.
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Decision

1. The appeal is allowed and condition 20 is discharged, in accordance with the following plan submitted with the application: 9_1302_P_218A.

Preliminary Matters

2. The details submitted for cycle parking provision relate to changes that have already been carried out. The application is therefore retrospective, and I have considered the submission accordingly.

3. The National Planning Policy Framework has been revised subsequent to the decision made by the Council on the application to which this appeal relates. I have therefore made my decision with regard to the National Planning Policy Framework (December 2023) (the Framework).

Main Issues

4. The main issues are:

- Whether the submission can be considered for the discharge of the condition; and
- The effect on the promotion of active, healthy and sustainable transport.

Reasons

Discharge of Amended Condition

5. Condition 20 attached to the planning permission ref: 2013/1895 for the development of the school originally stated that: 'Prior to the commencement of the relevant part of the development on site, details of secure bicycle storage facilities within the site for 80 cycles, including access arrangements to storage areas, layout, stand type and submission, shall be submitted to and approved in writing by the local planning authority. Such details as approved shall be implemented prior to the occupation of any of the new buildings hereby approved and shall thereafter be retained.' This was subsequently amended by permission Ref: 2014/1160 for a non-material amendment to state: 'Prior to the commencement of the relevant part of the development on site, details of secure bicycle storage facilities within the site for 80 cycles, including access arrangements to storage areas, layout, stand type and submission, shall be submitted to and approved in writing by the local planning authority. Such details as approved shall be implemented prior to the occupation of any of the new buildings hereby approved and shall thereafter be retained, unless otherwise agreed in writing by the local planning authority'.
6. The number of cycle parking spaces required on the school site does not form part of the description of development for planning permission ref: 2013/1895 and is instead covered by condition 20. Therefore, my reading of the amended wording of condition 20 permitted by permission Ref: 2014/1160 is that this allows, subject to the written agreement of the Council, for the timing of installation, retention and number of cycle parking spaces on the school site to change, and that this can be dealt with through an application for the discharge of conditions attached to the original planning permission. The corollary of my finding is that there is also no requirement for planning permission for a non-material amendment to permission ref: 2013/1895, or for a new planning permission for the amendment to cycle parking on the school site.

Cycle Parking Provision

7. Subsequent to the permission for a non-material amendment to condition 20, this condition was discharged, with approved plans allowing for 80 cycle parking spaces. These were then implemented as part of the approved development. However, a number of cycle racks have subsequently been

removed and cycle parking now only remains in two locations. This results in 26-27 cycle parking spaces within racks currently on the school site.

8. The appellant has set out that this was in response to an Ofsted report that, amongst other matters, raised fundamental concerns with regard to the cycle parking locations and extent and their effect on safety of those using the playground. In response, cycle parking on the perimeter of the main play and hard sports areas of the playground were removed. Following the commencement of enforcement by the Council, the appellant submitted an application for the discharge of condition 20, with material submitted providing details of the revised cycle parking and the reasoning behind the implemented change.
9. This submitted material includes survey information on transport modes of those traveling to the school and the levels of use of the existing cycle parking spaces. I am satisfied that this gives a full and accurate picture of the current travel and cycle parking use and chimed with my own observations on my site visit.
10. The originally approved and implemented cycle parking allowed for 80 spaces, which, based on the information provided by the appellant on the existing uptake of cycle parking spaces, allowed for a significant increase in cycling by those traveling to the school and needing a parking space. However, this information also shows that current cycle parking needs are currently being met, with approximately 50% of existing spaces also being unused. This appears to allow for approximately a 100% increase in cycle use and parking on existing.
11. This existing level of unused cycle parking allow for growth, albeit not to the extent delivered by the 80 original spaces. It does, however, appear to be enough to meet reasonable growth in active and sustainable travel by bicycle to the school. I note, however, that the vast majority of current journeys to the school are by walking, bus and train, with only a small number of car journeys. No information was, however, provided on the need for these car journeys either for access or developmental need by users. This information does, however, appear to indicate a pattern of high, active and sustainable travel, based on walking, cycling and public transport.
12. It would appear that a substantial change from walking and public transport to cycling would be required to justify the need for 80 cycle parking spaces and that such a change would likely be met by the current cycle parking provision in the foreseeable future. Although it may be the case that other interior spaces could possibly be used for additional cycle parking or that a small number of additional spaces could be added to the existing racks or through the use of different racks over time, I have considered the existing cycle parking provision on its own individual merits.
13. I have given only moderate weight to the Council's original requirement for 80 cycle parking spaces, as originally implemented, and the potential benefits of this number in encouraging active and sustainable travel to school, as I find that the current level of unused cycle parking is likely to meet that need. Whilst the original 80 cycle parking spaces would provide for a potential substantial change from other modes to cycling, from the information before me, this appears to be a considerable stretch target. As such, it would allow

for a significant number of unused cycle parking spaces in the foreseeable future. This would, at most, provide for only a very limited public benefit in terms of active and sustainable travel. I find that this benefit would be substantially outweighed by the public benefit of the safety of those using the playground, and the school meeting its required Ofsted standards relating to safety, health and safeguarding.

14. For these reasons, I find that the discharge of Condition 20, on the basis of the submitted plan showing 26-27 cycle parking spaces, would not result in any significant harm with regard to the provision of facilities for promoting active and sustainable travel. This would, therefore, be in accordance with Policies LP42 and LP9 of the Hackney Local Plan 2033 (2020), Policy T1 of the London Plan 2021 and Section 9 of the Framework, which collectively seek to promote sustainable transport, including the active and healthy modes of walking and cycling.

Conclusion

15. The appeal is allowed.

Victor Callister

INSPECTOR