



Appeal Decision

Site visit made on 6 August 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/J1860/W/24/3344494

Our Place School at The Orchard, Bransford, WORCESTER WR6 5JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Our Place Schools against the decision of Malvern Hills District Council.
 - The application Ref is M/23/00803/FUL.
 - The development proposed is the change of use of land to a school (use class F.1).
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Various planning permissions have been given since 2009 that have established the site for educational purposes. The site currently provides accommodation for 10 children and 10 adults within a residential school setting. The proposal seeks to replace the use of the existing facility with a day school for a maximum of 45 pupils. The proposed facility would provide 45 places for pupils with Special Educational Needs and Disabilities (SEND), with up to 10 being residential students.
3. The proposed development would result in a change of use that would alter the frequency and volume of traffic using the access at certain times in the day, especially around drop off and collection times.
4. The main issues are:
 - The effect of the proposal on highway safety, with particular regard to the proposed means of access, and
 - Whether the appeal site would be a suitable location for the proposed development taking into consideration local and national policies.

Reasons

Highway matters

5. The site is located alongside the A4103. This is subject to the national speed limit of 60mph and is a relatively narrow single lane carriageway in front of the site's access. The highway locally has a gradual curve and has minor variations to its gradient. Visibility from the entrance looking southwest benefits from a slight curve and distant rise of the highway, providing good visibility. However, roadside tree and hedge planting, and some topographical changes, affect visibility from the entrance into the site to the northeast. Therefore, views to

the northeast are partially obstructed by the curve in the road, boundary trees and hedges and an embankment foreshortening views.

6. Manual for Streets (MfS) provides guidance for lightly trafficked streets but many of its principles are applicable to other types of street including rural roads. Manual for Streets 2 (MfS2) sets out examples of how to apply the principles of MfS to existing streets, particularly those that are mixed use and busier than residential streets but are not part of the Strategic Road Network (SRN), which comprise the country's motorways and trunk roads. MfS2 is clear that most MfS standards can be applied to a highway regardless of speed limit and this should be used as the starting point of any scheme affecting non-trunk roads.
7. Design Manual for Roads and Bridges (DMRB) sets out higher and more stringent standards which apply to the design, assessment and operation of motorways and all-purpose trunk roads in the UK. However, DMRB standards are significantly higher than MfS as they have been specifically developed for the SRN. Moreover, the Stopping Sight Distances, referenced in DMRB, do not reflect significant improvements in vehicle braking systems over the last 30 years.
8. DMRB requires an access to provide a visibility splay of 2.4m (x-axis) by 160 metres (y-axis) onto a highway where the speed limit is 60mph. However, the application of visibility splay requirements would not be justified if a speed survey demonstrates that traffic is not travelling at the anticipated speed. The Warwickshire County Council Streetscape Design Guide (SDG) states that horizontal visibility from an access must be informed from the 85th percentile speeds, surveyed in free flow conditions.
9. The Appellant's Transport Statement¹ includes speed survey data. This identifies that the 85th percentile of speeds were 45mph southbound and 51.6mph northbound, showing vehicles travel at significantly below the national speed limit. At 50mph and 60mph, speed stopping distances have been shown to be 113 metres and 151 metres respectively, based on SDG requirements. Consequently, I am satisfied that the speed survey data provides justification for reduced visibility splay requirements to be applied.
10. The visibility splay drawing, at appendix E of the TS, shows that visibility splays of 113 metres to the north and 154 metres to the south can be provided. Appendix H of the TS and my own observations on site, demonstrate that visibility to the north of the access, in the vertical plane, is substantially obstructed by the embankment within the site. The Appellant advises that this could be altered and regraded as part of the development proposals.
11. The Highway Authority originally sought the provision of a ghost island, to enable right turns into the site for vehicles travelling from the south. However, the Appellant's technical note 3 has revised traffic generation forecasts which has removed the need for a ghost turn. The Highway Authority has now withdrawn its objection to the proposal subject to the imposition of several conditions including two that relate to the safe operation of the access. These relate to detailed specification of the A4103 verge embankment works and the provision of a vehicle visibility splay.

¹ Transport Statement, rapport, May 2023

12. Nonetheless, the first suggested condition is vague in its requirements, the implications of the delivery of an adequate visibility splay and assumes this would create no adverse effects. Instead, this matter should be fully considered during the application process. Such assessment would allow consideration of the extent of regrading required, the extent of tree and hedge removal and the effect on tree roots. Such boundary greenery currently makes a positive contribution to the local rural landscape, its loss could substantially alter the appearance of the enclosed roadside boundary of the site. Furthermore, on site I observed that the visitor parking area, was close to the embankment and regrading works could require changes to the parking provision.
13. In the absence of a clear understanding of the works required to create safe visibility, and its implications on the character and appearance of the area, the suggested condition would be unreasonable and therefore cannot be imposed. Without the remodelling details, the proposal would not secure the required vertical visibility that is required. As such, the access would not operate in a safe manner, resulting in the potential for conflict to be caused between road users.
14. Accordingly, it has not been demonstrated that the site access would be safe for either users of the facility or surrounding road users and the facility would not therefore function well. Consequently, the proposal would conflict with policy SWPD21 of the South Worcestershire Development Plan [2016] (DP) and paragraphs 114(b) and 115 of the National planning Policy Framework (the Framework). These seek, among other matters, for vehicular traffic to access a site safely, for safe and suitable access to be achieved for all users and to refuse development that would lead to an unacceptable impact on highway safety.

Suitability of location

15. DP policies 1 and 2 establish the Council's spatial development principles identifying a presumption in favour of sustainable development. DP policy 2 explains a settlement strategy that seeks to direct most new development towards urban areas, where both housing needs and accessibility to lower cost public services are greatest.
16. The proposed community use is subject to DP policy 37. This states that the provision of new community facilities, including educational establishments such as schools and colleges, will be supported. This is stated as particularly where they have resulted from neighbourhood planning and where they have been subject to satisfying the sequential test in the Framework. The policy also states that applicants should consider whether combining with existing facilities would be more appropriate than the provision of a new facility. The Framework supports the provision of social, recreational and cultural facilities and services that a community needs to enhance sustainable communities.
17. The sequential test, as defined by paragraph 91 of the Framework, explains that Main Town Centre uses should be located in town centres, then in edge of centres and only if suitable sites are not available should out of centre sites be considered. Schools are not specifically listed as a main town centre use in the Framework's glossary, but this is not necessarily a closed list. The F1 use class, as defined by the Use Classes Order 1987 (as amended), includes museums, galleries, libraries, halls, places of worship, law courts, non-residential education and training centres. These activities share sufficient characteristics

- with town centre uses, such as in providing a service and attracting staff and users, to warrant the application of the Framework's sequential approach.
18. The site is in the parish of Bransford. It is adjacent to the A103 providing good highway connections to Worcester and Hereford. The site is between the small villages of Bransford and Leigh Sinton, and therefore within the open countryside. As such, for the purpose of DP policy 37 the site is in an out of centre location. The Framework states that when considering out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.
 19. The Appellant's sequential test² has considered the catchment area for the facility and whether any alternative sites are sequentially preferable. The author explains that the catchment area has been defined in consideration of the school's existing catchment area. This shows the location of the addresses of both staff and pupil's homes who attend the school. This shows a cluster around Worcester, a smaller cluster around Hereford and individual points radiating out from Worcester in a 30-mile radius.
 20. The school's headteacher explains that the school, providing specialist education, receives consultation requests from eight local authorities being; Worcestershire, Herefordshire, Solihull, Wolverhampton, Powys, Warwickshire, Sandwell and Telford. Although the staff and students who would attend the facility would change over time, this provides a useful indication of the breadth and spread of the home addresses of users of the facility. The facility is a specialist school and has a wider pupil catchment area than a mainstream school. This demonstrates that the school's search area for a sequentially preferable site, covers a large area.
 21. Due to the special educational needs of the attending pupils, the Appellant explains that any site search needs to take into account criteria that includes the need for good highway connections and a peaceful and quiet environment, in addition to the site's size requirements. Guidance³ for travel times suggests that primary school children should be a maximum of 45 minutes and 75 minutes for secondary school children. The above considerations demonstrate that the site should be in Worcestershire, and be centrally located, to ensure all existing pupils and staff would have reasonable travel times to the facility. This approach seems to be a reasonable method to determine the catchment area and provides scope for a wide and robust site assessment to be undertaken.
 22. The Appellant explains that many of the pupils are sensory learners who gain from being in an environment that is peaceful and uncrowded. Accessibility to outside space and a quiet environment is highly conducive to the development of the pupils. A report submitted by a clinical psychologist⁴ in support of the proposal demonstrates the benefits of a peaceful environment to the pupils and identifies significant positive associations between green space and mental health. Consequently, I have taken these specific requirements for the school into account in my consideration of alternative sites.
 23. Paragraph 4.11, of the Appellant's sequential test, considers sites located close to or within urban areas. This also considers allocated sites, sites subject to

² Needs Case and Sequential Test, DWD, May 2024

³ Department for Education – Travel to school for children of compulsory school age, June 2023

⁴ Children with Special Needs and Exposure to Nature, Dr Ze'ev Levita, March 2024

planning applications for schools and sites for sale on the open market. The assessment looked for sites of between 1 and 2 hectares in size and those that would provide access to outside space. The Council's 'Local Plan – Allocations' has identified four potential sites and online database land searches have revealed six further sites.

24. These ten sites were then considered in greater detail through specific site assessments. Of the ten sites, some were found to be unavailable, and the remainder were deemed to be unsuitable for a range of reasons. The Council does not dispute the catchment area for site selection, the methodology applied, and most sites considered and eliminated. The Oldwood Road site has been eliminated as it is deemed to be in an out of centre location. Although this is in a similar context as the appeal site, this does not demonstrate that the Oldwood Road site is a sequentially preferable site. Furthermore, based on the nature of the use, the importance of access to outdoor space is recognised as part of the school's requirements, which has eliminated other sites as being unsuitable.
25. Consequently, the sites considered by the Appellant's have been eliminated for reasonable reasons, including those that would provide limited or no outdoor space. As a result, the sequential test demonstrates that no sequentially preferable sites are readily available.
26. Moreover, although the supporting text of DP policy 37 seeks new community facilities to be in, or adjoining settlements, this requirement is not a matter of policy which refers firstly to the need to meet the sequential test. The Council questions whether the SEND places could instead be found within existing schools. Due to the scale of the proposed school, it is unlikely that a similar number could be accommodated at existing schools. Furthermore, I have no evidence from the Local Education Authority to expand my understanding of this issue.
27. Accordingly, the evidence demonstrates that the site would be a sequentially preferable location for a school. The proposal would therefore comply with DP policies 1, 2, 4 and 37 and the Framework. These seek, among other matters, for community developments to be located on sequentially preferable sites.

Public Sector Equality Duty

28. The existing facility provides 10 overnight accommodation places for children with severe and complex learning difficulties. The proposal seeks to adapt the facility to provide places for 45 pupils. The facility would provide SEND education for girls and boys aged between 8 and 18 years for pupils with a range of special educational needs.
29. The headteacher of the school has identified a substantial local need for SEND places in the local area. During 2022 the school received 2,000 referrals and 60 consultation requests, demonstrating a high demand for places at the facility. Pupils are currently placed at the school from a number of local authorities from across the country. The long-term goal is for all pupils to develop and be elevated to a point where they can live, in some part, independently. The Council accepts that there is unmet demand for SEND education in the area.
30. In my assessment of the proposal, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This

sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Given the nature of the proposal and the special educational needs of the attending children, this group is one that shares a protected characteristic for the purposes of the PSED. I have therefore afforded greater weight to the benefits of the proposal to this group as required by the PSED.

Planning balance and Conclusion

31. The site would be a sequentially preferable location centrally located within the school's catchment area. It is an existing school facility, adjacent to an A-Classified road in an accessible location that enables good access to the local area. I attribute modest weight to this benefit.
32. In contrast, the access would not function well due to obstructions, within the required visibility splay, that would jeopardise highway safety. I have concluded that the proposal would conflict with DP policy SWPD21 and the Framework in this respect. I am sympathetic to the needs of the school and attending children, but it has not been shown that the harm caused to highway safety can be overcome by conditions.
33. Therefore, whilst attributing additional weight to the benefits of the scheme, relating to a use for children within a protected group, the associated benefits would depend on access via a safe and secure means of access. The harm caused by the anticipated conflict with highway safety outweighs benefits of the proposal including by supporting the elimination of discrimination, advancing the equality of opportunity for those persons and fostering good relations between them and others. In these circumstances, it is proportionate to refuse planning permission, and in doing so is necessary to foster good relations.
34. For the reasons given above and having had regard to all other matters raised, I find that the proposal would not accord with the development plan, when taken as a whole, and no material considerations would outweigh the conflict found. Consequently, the appeal should be dismissed.

Ben Plenty

INSPECTOR