



Appeal Decision

Hearing held on 21 January 2025

Site visit made on 20 & 21 January 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/Z5630/W/24/3348972

Rokeby School, George Road, Kingston upon Thames, KT2 7PB

- 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 Rokeby Educational Trust Limited against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/01756/FUL.
 - The development proposed is provision of three classrooms at first floor level above the existing sports hall (ensuring the ridge height remains unchanged) located on the eastern boundary together with the single storey extension of the existing Design and Technology classroom to the rear, new electrical substation and associated works. Capping pupil numbers to 420.
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Decision

1. The appeal is allowed and planning permission is granted for provision of three classrooms at first floor level above the existing sports hall (ensuring the ridge height remains unchanged) located on the eastern boundary together with the single storey extension of the existing Design and Technology classroom to the rear, new electrical substation and associated works. Capping pupil numbers to 420 at Rokeby School, Kingston upon Thames, KT2 7PB in accordance with the terms of the application, Ref 23/01756/FUL, and the plans submitted with it subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Rokeby Educational Trust Limited against the decision of the Royal Borough of Kingston Upon Thames. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading above includes the capping of pupil numbers to 420 and the appellant has provided a planning obligation which restricts the pupil numbers to the number described. Therefore, whilst this is not a description of development, it is linked to the obligation and therefore I have included it within my decision. I shall consider the planning obligation in more detail later in my decision.

Main Issues

4. The statement of common ground confirms that there are no matters in dispute relating to the extensions to the building and therefore I have confined my consideration to the proposed increase in pupil numbers.

5. Therefore, the main issues in this appeal are the effect of the proposed increase in pupil numbers on highway safety and the living conditions of residents within the Coombe Estate, in respect of noise and disturbance.

Reasons

6. Rokeby School is an all-boys school for ages 4-13 located on George Road, where two other independent schools, Marymount International School and Holy Cross Preparatory School, are also located. A legal agreement dated 7 June 1984 attached to earlier planning permissions (R.27823 & R.28388) restricts pupil numbers at Rokeby School to 370. However, the other two schools, as I understand it, do not have a cap on pupil numbers and Holy Cross in particular has increased its pupil numbers over the last decade.
7. The school confirmed that pupil numbers have exceeded this number for a significant period of time and that currently they have 406 pupils on the role, with numbers fluctuating between 401-406 over the past five school years. The Council confirmed that their reasons for refusal would remain even if pupil numbers were capped to the current role of 406 pupils. Therefore, I have considered the appeal on the basis of the increase from 370 to the proposed cap of 420 pupils.
8. In 2010, a planning application was approved (10/14811/FUL) for demolition of single storey building housing two reception classrooms and ancillary accommodation and the erection of two storey building including basement to provide additional six classrooms, hall, WCs and ancillary offices. This decision was subject to a condition requiring the submission of a travel plan, which was duly submitted and approved in June 2011. However, the requirement for the travel plan to be reviewed annually for a period of five years to secure a reduction in travel by car by pupils and staff was not adhered to. The Council confirmed that there are no current travel plans in place for the other schools which means there are limited options for achieving a modal shift available to the Council.
9. The 2011 School Travel Plan (2011STP) sought to achieve a modest reduction in car travel of 2% in the first year. The Council set out that this level of reduction was based on an aspiration and there is no evidence before me to suggest that a 2% reduction, even based on pupil numbers capped at 370, would significantly reduce traffic congestion during school drop off and pick up times. The Council have suggested that over 5 years they would have expected to see a 10-12% reduction, however this figure did not appear to be based on any available evidence.
10. Furthermore, the 2011STP sought to reduce the number of staff travelling to school by car by 2 (or 4% of staff numbers). However, since that time staffing levels have increased, and there was no cap on staff numbers imposed on either of the previous two applications.
11. There is no doubt that parking associated with all three schools along George Road is an inconvenience to residents, leading to a degree of disturbance during the busiest periods of the day. During my site visit on 20 January, where I observed the school pick up between 1430 – 1630, I witnessed several incidences of inappropriate parking, both on double yellow lines and on the corner of junctions. Also, children having to dodge unexpected car movements as cars reversed out of spaces and turned around in George Road. However, not all of these car movements and vehicles parked were associated with parents picking up from Rokeby School.

12. I also witnessed that by 1630 when the majority of cars collecting children had departed that significant numbers of cars remained parked along George Road, and these may be attributed to staff parking who would be departing later. During my second site visit I observed the difficulties facing two Rokeby School Minibuses trying to travel along the road where parked cars had narrowed the carriageway creating a bottle neck of traffic congestion. Therefore, what I witnessed, whilst a snapshot in time on any given day, concurs with the third-party representations received as part of the application and appeal. As such I have no reason to doubt the strength of feeling expressed in terms of the impact on the living conditions of those residents living within the surrounding streets connected with traffic movements and parking associated with school drop off and pick up.
13. However, even if the appeal were to be dismissed there remains some doubt that pupil numbers would be reduced to 370, at least in the short term as pupil places have already been confirmed for September 2025. Furthermore, the appellant considers that it would not be possible to enforce the existing legal agreement and although the Council dispute this, I have limited evidence on this point. The lack of enforcement over the last 5-10 years from the Council does also cast some doubt that it would do so in the future.
14. Even if the S106 could be enforced and pupil numbers did fall to 370, given the increase in staff numbers since 1984 and the potential that staff and pupil numbers could have increased at both of the other schools in George Road, there is a lack of certainty that overall traffic levels would decrease.
15. It has been put to me that the failure of the 2011STP to reduce travel by car casts doubt on whether the 2024 School Travel Plan (2024STP) could achieve its aims and aspirations in order to reduce car use by parents and staff.
16. However, the Council agree that the 2024STP is robust and acceptable and therefore if it were to be implemented successfully it would reduce car use by levels below the target set in the 2011STP, even if aspirations of a 12-15% reduction by 2017 had applied.
17. The 2024STP sets out measures which would enable a meaningful modal shift away from car dependence. These include reducing the number of car journeys by 100+ per day by adding additional mini bus routes, running a car share scheme for parents and students, encouraging students who live within 1.5km of the school to walk or cycle to school. The 2024STP also commits to sign up to the Transport for London (TFL) Stars Transport Programme which requires mandatory annual reporting to TFL and to file their annual transport plan with the resident's association. These measures would mitigate the traffic associated with the current situation, with pupil numbers just over 400 pupils, and any future increase to 420 pupils.
18. The school has already increased its uptake of school bus routes and there is nothing to suggest this would not be further increased over the travel plan period. Furthermore, the legal obligation provides funding for the monitoring of the travel plan and this would allow an oversight of the suggested measures for the next five years. The suggested travel plan condition also enables a further travel plan to be produced at the end of five years if targets for modal shift have not been fully met.

19. The Council confirmed that if I were to find that sufficient mitigation was provided by the 2024STP then the proposal would not result in increased congestion on the surrounding roads, as suggested by its second reason for refusal and therefore there would be no additional harm to the residential amenities of residents of the Coombes Estate arising from the proposed development.
20. Therefore, having regard to the 2024STP I am satisfied that it provides adequate controls to ensure a modal shift from travel by car to other means and that the appellant has options available to them to ensure that this is fully embraced by the school community. As such sufficient evidence has been provided to demonstrate that adequate mitigation measures would be put in place to ensure that traffic conditions would not worsen when assessed against the permitted cap of 370 and as such the proposal would not give rise to conditions prejudicial to highway and pedestrian safety and there would be no additional harm to the living conditions of residents within the Coombes Estate.
21. In conclusion the proposed development would accord with policies DM8, DM9 and DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy 2012, which together require new development, including schools, to develop and implement a robust and effective travel plan, ensuring development does not contribute to congestion or compromise highway safety, having regard to local traffic conditions. Furthermore, it would take into account the amenities of neighbours, including in terms of noise and disturbance.
22. The proposal would also comply with policy T4 of the London Plan 2021, which requires the provision of travel plans to mitigate transport impacts.

Other Matters

Heritage Assets

23. The site is located within the Coombe Wood Conservation Area and includes the locally listed building, Rokeby School (Coombe Croft). The appeal site is adjacent to a number of other heritage assets, namely:
 - The Marymount School (the main building of which is also a locally listed former 19th century dwelling, Ballard Coombe);
 - Grade II Listed Four Acres and attached terrace, wall and steps; and
 - Grade II Listed Lodge and Gatepiers.
24. The significance of the conservation area is derived from the special architectural and historic interest of this area with large Victorian, Edwardian, and 20th century properties set in a semi-rural street scene around the open space occupied by Coombe Wood Golf Course. The architectural and historic interest of the conservation area primarily relates to the historic buildings within it, which provide physical evidence as to the origins of the estate. A large number of these buildings are either statutorily or locally listed. These buildings are high quality and are of clear historic illustrative interest representing the tastes and fashions of their periods of construction.

25. The historic built form of Rokeby School, is an attractive structure and one of the earlier buildings constructed by Galworthy in the 1880s, it makes a clear positive contribution to the conservation area's architectural and historic interest. The building retains a substantial proportion of original features and as one of three Galworthy properties in George Road has group value.
26. As required by the statutory duty under S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) I have given consideration to whether the proposal would preserve or enhance the character or appearance of the Conservation Area.
27. Furthermore, Section 66 (1) of the LBCA Act requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.
28. As detailed within the appellant's Heritage Impact Assessment, the proposals are found to amount to a sensitive scheme which enhances the educational provision of the site while being sensitive and preserving the heritage values of the identified heritage assets. As such, while resulting in a change on the site, the proposals are found to preserve the significance of the identified designated and non-designated heritage assets. These findings are consistent with the Council's own heritage advisor.

Planning Obligation

29. The appellants have provided a legal agreement under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 57 of the Framework. These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to and fairly and reasonably related in scale and kind to the development.
30. The obligation to cap pupil numbers to 420 is fairly related to the development as the proposal includes the extension to the existing teaching space and as such further pupils could be accommodated. Any further increases beyond this number have not been assessed in regard to the impact on transport matters and therefore it is also reasonably related in scale and kind. Therefore, I am certain that the obligation is necessary to make the development acceptable.
31. An obligation is also provided for the travel plan monitoring and the payment of a travel plan monitoring fee. For the reasons set out in my decision, the STP2024 is fundamental to the mitigation of the proposal and therefore the monitoring of this document is required to make the development acceptable in planning terms and the obligation is therefore necessary.
32. A Highway Works Contribution (HWC) of £30,000 has been included for the installation of measures to improve road safety on George Road. However, it is unclear what these road safety measures may be or how the figure of £30,000 has been derived. My understanding, from discussions at the hearing, are that it has not been possible to cost any proposed highway works and this would only be done once a scheme had been agreed.

33. At the hearing it was suggested that a camera at the edge of George Road could be installed to monitor traffic, or that further parking restrictions could be put in place. The suggestion of parking restrictions appears to have also been in discussion beyond the appeal proposals, but again the Council could not provide any estimation of the costs of such works.
34. Therefore, whilst some suggested measures were put forward during the hearing, which the contribution could be put towards, these works have not been costed, nor is there any evidence to suggest that the sums requested are fairly and reasonably related in scale and kind to the scale of the works requested, nor whether it would be necessary to make the development acceptable given that specific mitigation for the appeal proposal is set out within the 2024STP.
35. Consequently, I am unable to conclude that the HWC contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and as such this obligation should be disregarded from the Section 106.

Conditions

36. I have been provided with a list of conditions within the statement of common ground and I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.
37. In the interests of the character and appearance of the area conditions in respect of materials and details of design of all doors, windows, railings and boundary treatments are necessary due to the sites location within a Conservation Area.
38. Furthermore, it is necessary, in the interests of character and appearance, to secure details of soft landscaping and that works to trees are carried out in accordance with the Arboricultural Implications Report.
39. It is also necessary to ensure that the mitigation and enhancement measures outlined within the Preliminary Ecological Appraisal are carried out and that relevant protections are in place for Bats, including through the submission of a Landscape and Ecological Management Plan.
40. The submission and implementation of a Finalised Construction Logistics Plan is necessary to minimise detrimental effects to the living conditions of neighbouring residents and ensure highway safety during the construction phase.
41. In order to ensure an appropriate level of parking provision, I have imposed a condition requiring both scooter/cycle parking and staff/visitor parking spaces to be provided. This has to be implemented prior to the development being first brought into use.
42. I have also found it necessary to ensure that the School Travel Plan is updated to ensure that it is valid for a 5 year period and that appropriate mitigation measures are set out and delivered. This is to ensure that the increased pupil numbers arising from the development are adequately mitigated.
43. In order to ensure the amenity of future occupiers I have required details of any fixed plant or equipment associated with air moving and an acoustic report to ensure any plant installed does not result in noise above permitted levels.

44. Conditions restricting the use of flat roofed areas as balconies, the submission of a detailed Fire Strategy and confirmation that the development will achieve a BREEAM rating of good have also been agreed between the parties and I have therefore imposed these as they ensure that the development meets required standards and prevent overlooking.

Conclusion

45. For the reasons given above the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Turney KC, Landmark Chambers

Victoria Charlesson, Senior Associate, Moore Barlow

David Graham, Director Pembroke Planning

Kamran Haider, Director Pulsar Transport Planning

Michael Leeson, Bursar & Strategic Business Leader, Representative of Rokeby Educational Trust

FOR THE LOCAL PLANNING AUTHORITY:

Karen Coles - Interim Principal Planning Officer

Chike Ngwuocha - Highways Development Control Engineer

INTERESTED PARTIES:

Cllr. Rowena Bass

Bernard Kinchin

Ian Albutt

Judy Kane, Malden and Coombe Residents Association

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:
 - 2401_09000 Rev P02 Site Location Plan
 - 2401-EWA-ZZ-ZZ-DR-A-19000 Site Plan - Proposed Rev P09
 - 2401-EWA-ZZ-00-DR-A-10400 Ground Floor Plan - Proposed Rev P09
 - 2401_10401 RevP08 Proposed First Floor Plan (Level01)
 - 2401_10402 RevP07Proposed Second Floor Plan
 - 2401_10403 RevP07Proposed Roof Plan
 - 2401_10502 RevP03 Proposed South and West Elevations
 - 2401_10501 RevP07 Proposed Elevations
 - 2401_10601RevP09 Proposed Sections
 - 2401_10602 RevP02 Proposed Sections
 - 2401_SK03 RevP01 Typical Bay Elevation
 - 2401_10550 RevP05 Proposed Internal Views
 - 2401_10520 RevP07 Proposed Views
- 3) No development above ground level shall take place until details, to include a physical sample material palette of all external facing materials including details of manufacturing specification, of the external facing materials, windows, doors, railings and hard landscaping, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The development shall be implemented in accordance with the details and recommendations set out within the Preliminary Ecological Appraisal & Preliminary Roost Assessment, prepared by MKA Ecology dated June 2023.
- 5) Prior to commencement of the development hereby approved, the following details shall be submitted and approved in writing by the Local Planning Authority:
 - (i) details confirming that the required European Protected Species Mitigation License has been issued, and
 - (ii) full details of mitigation and enhancement measures for bats.The development shall be implemented and maintained in full accordance with the agreed details.
- 6) Before the first occupation of the building, a Landscape and Ecological Management Plan (LEMP) shall be submitted and agreed in writing by the Local Planning Authority. The LEMP should be produced setting out the detailed establishment and management of all on site compensation and enhancement measures, including all details set out within the Preliminary Ecological Appraisal & Preliminary Roost Assessment prepared by MKA Ecology dated June 2023, and the further mitigation and enhancement measures for bats, to be agreed under the terms of condition 5.

The LEMP shall also include the replacement tree planting, as detailed within Tree protection Plan SJA TPP 23131-042 Revision A, set out within Appendix 3 of the Arboricultural Implications Report prepared by SJA Trees dated May 2023.

The development shall be implemented and maintained in accordance with the agreed LEMP.

- 7) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) All tree works shall be carried out in accordance with the Arboricultural Implications Report prepared by SJA Trees dated May 2023. The approved measures shall be implemented prior to commencement of any work on site and maintained to the reasonable satisfaction of the Local Planning Authority until the completion of the development.
- 10) No development above ground level shall take place until details of the design of all doors, windows, railings and boundary treatments. including plans/elevations/drawings at scale 1:5/1:10 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) No development shall take place (including any works of demolition) until a Finalised Construction Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period.

The statement shall provide for:

- i) How the proposed development will be built;
- ii) Hours of working (which shall be limited to 08.00 to 18.00 Mondays to Fridays and between 08.00 to 13.00 on Saturdays and not at all on Bank Holidays and Sundays);
- iii) The procedure for loading/unloading materials;
- iv) The route to and away from site for muck away and vehicles with materials;
- v) The protocol for managing deliveries to one vehicle at a time on sites with restricted access or space;
- vi) The protocol for managing vehicles that need to wait for access to the site;
- vii) Whether any reversing manoeuvres are required onto or off the public highway into the site and whether a banksman will be provided;

- viii) Temporary site access;
 - ix) Signing system for works traffic;
 - x) Whether site access warning signs will be required in adjacent roads;
 - xi) Whether it is anticipated that statutory undertaker connections will be required into the site;
 - xii) The storage of plant, materials and operatives vehicles;
 - xiii) The potential for impacts from dust and emissions during the demolition and/or construction phase upon local air quality and surrounding residents;
 - xiv) Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works;
 - xv) The location of all ancillary site buildings;
 - xvi) The means of enclosure of the site, its erection and maintenance;
 - xvii) Wheel washing equipment;
 - xviii) The parking of vehicles of site operatives and visitors;
 - xix) Meeting the requirements of the Low Emission Zone for Non-Road Mobile Machinery (where relevant plant or vehicles are being used); and
 - xx) The method of recycling and disposing of waste resulting from the demolition and/or construction phases
 - xxi) Deliveries/collections to and from the site shall use a route that is agreed with the highway authority and the agreed route shall be signed accordingly.
 - xxii) Details of a point of contact and for those details to be displayed on site.
- 12) The development hereby permitted shall not be brought into use until secure cycle and scooter parking facilities for the pupils, staff and visitors have been provided and made available in accordance with details which shall first be submitted to and approved in writing by the local planning authority. These facilities shall thereafter be retained for use for the purposes of secure cycle and scooter parking at all times.
- 13) Prior to occupation of development hereby approved, an update to the School Travel Plan shall be submitted to and approved in writing by the local planning authority. The update to the School Travel Plan should include
- details of modal share targets from 2028 to 2030, in order that the travel plan is valid for a five year period;
 - details of mitigation measures to limit the impact on the highway at peak hours;
 - management plan setting out regime for parents dropping off and picking up of pupils;
 - details of initiatives to support sustainable modes of transport,
 - details of initiatives to encourage staff to use sustainable mode of transport;
 - details to demonstrate accreditation through TfL STARS scheme (to aim at least silver level)

- details of how annual monitoring and review will be undertaken, submitted and agreed throughout the first five years of the Travel Plan.

If following 5 years of implementation of the School Travel Plan, and no later than 5 years from the date of this decision, the agreed targets have not been met, a new School Travel Plan shall be submitted and agreed in writing by the Local Planning Authority to demonstrate how the targets will be achieved.

The development will be carried out in accordance with the School Travel Plan by Pulsar Transport Planning RO2-AH-Rokeby School Travel Plan 240110 and the approved update.

- 14) Prior to the occupation of the development hereby approved, the area for car parking shown on the approved plans shall be provided with a hard-bound, adequately-drained, dust-free surface and that area shall thereafter be kept available at all times for the parking of vehicles for staff and visitors.
- 15) No fixed plant and equipment associated with air moving equipment, compressors, generators or plant or similar equipment (including air source heat pumps) shall be installed until details, including acoustic specifications have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 16) Before the use hereby permitted commences an acoustic report shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the rating level of the cumulative sound emissions of the plant hereby permitted will not exceed L_A,15mins 35dB. The noise levels shall be measured or predicted 1 m externally to any window of a habitable room at the nearest residential facades. Measurements and assessment shall be made according to British Standard 4142:2014.
- 17) Any flat roofed area shall not be converted or used as a balcony or sitting out area, and no access shall be gained except for maintenance purposes.
- 18) Prior to the commencement of any above ground development a detailed Fire Strategy shall be submitted to the Local Planning Authority for approval in writing. The measures set out in the approved Fire Strategy must be implemented prior to the beneficial occupation of the development and retained in perpetuity.
- 19) The development hereby approved shall be carried out in accordance with the measures set out within the BREEAM Pre Assessment report prepared by Scott White and Hookins.

Within 6 months of the beneficial occupation of the development hereby approved, details demonstrating that the development has achieved a BREEAM rating of 'Very Good' with all minimum standards for "Excellent" being achieved as set out in BREEAM Pre Assessment report prepared by Scott White and Hookins, shall be submitted to the Local Planning Authority for approval in writing. The details shall include an assessment carried out by a suitably qualified professional.

-END-