



Appeal Decision

Site visit made on 20 May 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2025

Appeal Ref: APP/D3830/W/24/3355413

171 Marle Place, Leylands Road, Burgess Hill, West Sussex RH15 8HZ

- 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 Options Autism (7) Ltd against the decision of Mid Sussex District Council.
 - The application Ref is DM/23/3112.
 - The development proposed is the installation of multi-use games area, play area, trim trail, horticulture area, sensory garden, vehicular access security gate and fence, internal partition fences, perimeter security fences, soft/hard landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my visit, I noted that the perimeter security fence, internal partition fencing, sensory garden and formalised play area in the front garden had been installed. However, the multi-use games area (MUGA) and activity/play area to the rear of the school have not been built. Accordingly, I have considered the appeal based on the plans before me.

Main Issues

3. The main issues are:
 - whether the perimeter fence and proposed MUGA would preserve or enhance the character or appearance of the St Johns Conservation Area;
 - the effect of the perimeter fence and proposed MUGA on the significance of the non-designated heritage asset (NDHA) known as 171 Marle Place (Hambrook School), through development within its setting; and,
 - the effect of the proposed MUGA on protected trees within the site.

Reasons

Conservation Area

4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
5. The appeal site is located within the St Johns Conservation Area (CA). My attention has been drawn to a document titled 'Conservation Areas in Mid

Sussex'¹. I have drawn on this and my own observations on site to determine the character, appearance, and significance of the CA.

6. Marle Place (a former substantial residential property, now Hambrook School) and its grounds are mentioned in the description of the CA. The building is an example of a substantial residential dwelling dating from the town's growth and along with its grounds it positively contributes to the significance of the CA. The grounds are an important recreational resource, with a considerable number of trees that positively contribute to the local amenity and character of the area by providing an attractive open space within a relatively densely built up area.
7. The perimeter fence has been erected along the boundaries of the school. It runs adjacent to the Public Right of Way (PROW) that leads to Marle Place Recreation Ground and along the southern boundary of the site facing the park. An existing post and rail fence sits in front of the fence that runs adjacent to the PROW. The fence is taller than the previous boundary treatment which had a degree of permeability. Despite views of the fence being limited to users of the PROW, and trees overtopping it, its solid nature combined with its increased height, appears stark when viewed along the PROW. As a result, it negatively effects the gateway to the park and the CA from the north, and therefore fails to preserve the character or appearance of the CA.
8. With reference to the fence on the southern boundary facing the park, only part of it is visible when viewed from the park. This is because a significant portion of it is screened by trees and established vegetation. The previous fence would have been lower, but it would have formed a barrier that would have negatively affected the open and spacious character of the CA. Nonetheless, the taller fence has a greater negative impact on the CA when compared to the lower fence. However, the impact of the increased height is mitigated to some extent by the established vegetation which exceeds the height of the fence in areas.
9. The proposed MUGA would be located behind the perimeter fence and enclosed by a 2.4m mesh fence. The mesh fence would have a degree of permeability and would not exceed the height of the perimeter fence. Whilst the ground level within the site slopes marginally up towards the house, the difference in levels is not significant and given the proposed MUGA would be behind the substantial Wellingtonia trees on site, it is unlikely that it would be viewed from outside of the appeal site. As such the proposed MUGA would preserve the appearance of the CA.
10. For the reasons above, whilst the proposed MUGA would preserve the appearance of the CA, the perimeter fence would fail to preserve or enhance the character or appearance of the CA. It would therefore be contrary to policies DP26 and DP35 of the Mid Sussex District Plan² and Policy H1 of the Burgess Hill Neighbourhood Plan. These policies amongst other things require development to conserve or enhance the character of the CA and be of a high quality design.

¹ Adopted in August 2018

² Adopted in March 2018

171 Marle Place

11. 171 Marle Place is a NDHA based on its age, architectural quality, and communal value. It is recognised as having architectural or historic merit within the Neighbourhood Plan. The rear garden of the property and adjoining park would have formed part of the original grounds of the NDHA and the verdant undeveloped nature of them positively contributes to the setting of the NDHA.
12. The erected perimeter fence on the southern boundary would impinge on views between the park and rear garden of the appeal site. However, the previous fence would have had the same impact. As such the effect of the fence on the setting of the NDHA would be acceptable.
13. The proposed MUGA would cover a large area within the rear garden of the school. It would introduce an artificial and incongruous feature into the setting of the NDHA due to the 2.4m high rebound fencing and its astroturf sports surfaced area. This addition would obscure views of the rear of the building from within the garden and detract from the verdant undeveloped setting of the NDHA, therefore negatively affecting its significance.
14. For the reasons given above the proposed MUGA would negatively affect the significance of the NDHA known as 171 Marle Place, through development within its setting. Despite the fence having an acceptable impact on the NDHA, the proposed MUGA would be contrary to DP34 of the Mid Sussex District Plan which seeks to conserve heritage assets in a manner appropriate to their significance.

Protected trees

15. The rear garden of the appeal site contains a number of trees including ones protected by a Tree Preservation Order (BH/02/TPO-/83). These trees are visible from a distance including views from the park and therefore they make a valuable contribution to the amenity of the area and the CA.
16. The plans illustrate that the installation of the MUGA would result in significant incursions into the RPAs of protected trees. In addition, the submitted Arboricultural Method Statement (AMS) and Tree Protection Plan details that construction of the MUGA would necessitate level changes that will affect trees T4–T9 and excavation within the RPAs of trees T1–T2, T4–T9. The report also references the use of machinery under supervision in the RPAs of Category A and B trees.
17. The AMS details a need to change levels to facilitate the installation of the MUGA and the proposed section details that this would incorporate a 200mm type 3 subbase. The AMS does not address the impact of this subbase within the RPAs of trees on site nor does it consider the effect of the detailed sub pitch drain network or how the posts required for the rebound fencing will be secured. As such the submitted report does not sufficiently demonstrate that existing trees on site would not be adversely affected by the installation of the MUGA.
18. It is noted that the use of machinery would be limited, and wooden boarding would be used within RPAs to mitigate any impact, however, it would be preferable to avoid incursions into the RPA of protected trees. In addition, whilst replacement trees are proposed, this would not negate the need to protect existing trees on site.

19. The submitted AMS provides details of how level changes can be achieved within an RPA without causing undue negative impact on trees, however the example of the cellular confinement system does not correlate with the proposed MUGA section.
20. For the above reasons, the proposed MUGA would have an unacceptable impact on protected trees within the site. It would therefore be contrary to Policy DP37 of the Mid Sussex District Plan which requires proposals to protect and enhance trees and prevent damage to root systems and take account of future growth.

Other Matters

21. Hambrook School is a private independent day special school for children and young adults, aged from 5 to 18 years old with autism and other complex learning needs. As a result, in determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010 and its aims to (a) eliminate discrimination, harassment, victimisation and any other prohibited conduct (b) advance equality of opportunity between persons who share a relevant protected characteristic and do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. The appellant has indicated that the MUGA is required to provide a separate area for the older children in the school to ensure that there is no crossover between the age ranges. In addition, the location of the MUGA has been determined so that it is hidden from public view which is important for the children that would use it. Whilst the appellant considers that the front of the school is much more visible than the rear, it has not been demonstrated that an alternative private area could not be created that would safeguard protected trees on site, preserve the appearance of the CA and respect the setting of the NDHA. In addition, with reference to the perimeter fence, it has not been demonstrated that the increased height of the fencing is required to make students feel safe and secure. Having regard to these matters, I therefore attach limited weight in favour of the appeal scheme to the needs of the students at the school.

Planning Balance and Conclusion

23. The perimeter fence would fail to preserve or enhance the character and appearance of the CA and the proposed MUGA would negatively affect the significance of the NDHA known as 171 Marle Place and have an unacceptable impact on protected trees within the site. Substantial weight is afforded to these harms.
24. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. With reference to the harm to the CA and the setting of the NDHA, given the scale and nature of the proposal, the degree of harm to the significance would be less than substantial, which Paragraph 208 of the Framework indicates should be weighed against the public benefits of the proposal.
25. Whilst the provision of the MUGA and the perimeter fence would benefit the students at the school and be a public benefit, given that alternative solutions could be explored, this benefit would be given limited weight and would be

insufficient to outweigh the less than substantial harm to the CA and the setting of the NDHA identified.

26. For the reasons given above, the development conflicts with the development plan as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it. With reference to the PSED, I consider that my decision to dismiss the appeal is proportionate.

V Goldberg

INSPECTOR