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App No : 19/07863/VCDN App Type : VCDN

Application for : Removal of condition 15 (playing field loss) attached to PP 17/05784/FUL (Erection of new sports hall building including changing rooms, lockers, toilets and 2 classrooms/studios with teachers offices, removal of three tennis courts to enable relocation of grass pitch, new multi-use games area and re-arrangement of parking spaces adjacent to the Chapel)

At Sir William Borlases Grammar School, West Street, Marlow, Buckinghamshire, SL7 2BR

Date Received : 29/11/19 Applicant : Ms Kay Mountfield

Target date for decision: 28/02/20

1. Summary

- 1.1. This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) to remove a planning condition which specified when a new playing pitch will be available for use.
- 1.2. Certainty is still needed for when the new playing pitch will be available for use to ensure that there is no loss of playing fields. As such the removal of the condition is not supported. However variation in the timing of the availability of the new playing pitch is acceptable and would maintain the original reason for the condition, which was to ensure no loss of playing field land.
- 1.3. Planning permission is recommended to vary the condition as follows:-

The playing field hereby permitted shall be implemented and available for use before either the new sports hall or the multi-use games area is first used, unless otherwise first agreed in writing by the local planning authority.
Reason: To ensure that the proposal does not result in the loss of or prejudice the use of playing fields.

2. The Application

- 2.1. This application is made under Section 73 to remove a planning condition specifying that the new playing pitch would be implemented and available for use before commencement begins on either the new sports hall or multi-use games area.
- 2.2. Permission was granted in 2019 (ref. 17/05784/FUL) for the erection of new sports hall building including changing rooms, lockers, toilets and 2 classrooms/studios with teachers offices, removal of three tennis courts to enable relocation of grass pitch, new multi-use games area and re-arrangement of parking spaces adjacent to the Chapel. The planning permission was subject to a number of conditions of which condition 15 stated:-

15. The playing field hereby permitted shall be implemented and available for use before commencement begins to either the sports hall or the multi-use games area, unless otherwise first agreed in writing by the local planning authority.
Reason: To ensure the proposal does not result in the loss of or prejudice the use of playing fields.
- 2.3. The applicant is seeking to have this condition removed. This condition was requested by Sport England in order to ensure that the development did not result in the loss of playing fields.
- 2.4. Work has already started on the new playing pitch. The applicant has cited a number

of factors that have led to their request to alter the original planning condition.

- 2.5. Firstly an excess of rubble was discovered when excavating beneath the existing tennis courts. The applicant wishes to use this excess rubble in the construction of the new sports hall.
- 2.6. The second factor is that construction of the new playing pitch has unearthed a water mains pipe which runs diagonally across the site of the new pitch. To ensure that there is sufficient clearance between the pipe and the playing pitch and that the pitch can be properly drained, the level of the playing pitch needs to be amended. (change in level of approximately 400mm). The applicant is proposing to source the extra soil needed for the new playing pitch from the footprint of the new sports hall and multi-use games area rather than bringing fresh spoil onto site. Hence this would necessitate commencement of the new sports hall before the playing pitch is available for use.
- 2.7. The consequences of not varying the condition is that:-
 - Spoil for the new playing pitch would have to be brought onto site. The applicant has estimated that 100 x 20 tonne trucks would be needed if soil cannot be sourced from on site.
 - The excess rubble that has been excavated would have to be removed from the site rather than being used for the sports hall construction. The applicant has estimated that this would need 25 trucks to remove the excess rubble at 10 cubic meters per load.
 - Delay to the completion of the new sports hall and multi-use game area would impact upon the delivery of a full academic sports programme for the next school year (starting September 2020).
- 2.8. This application is made under Section 73 of the Planning Act. Although often referred to as an application to vary or remove a condition, an application under this section of the Act actually has no effect on the original permission as it is not an amendment to the earlier permission. It is a separate freestanding permission that the applicant is entitled to implement or ignore. This application must therefore be capable of being implemented in its own right and therefore all appropriate conditions must be imposed.
- 2.9. The merits of the condition must be assessed against an up to date development plan. As any permission granted would in effect be a free standing planning permission all conditions to which the planning permission should adhere must be reattached. Section 73 of the Town and Country Planning Act 1990 (as amended) states:

“Determination of applications to develop land without compliance with conditions previously attached.

 1. This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
 2. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
 - a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”
- 2.10. The Council has consulted on the planning application and the responses are summarised in Appendix A of this report and are available in full on our web site.

3. Working with the applicant/agent

- 3.1. In accordance with paragraph 38 of the NPPF (Feb 2019) Wycombe District Council (WDC) approach decision-taking in a positive and creative way taking a proactive

approach to development proposals focused on solutions and work proactively with applicants to secure developments. WDC work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

3.2. In this instance:

- The application was determined without delay.
- The application was considered by the Planning Committee where the applicant/agent and neighbours had the opportunity to speak to the committee.

4. Relevant Planning History

4.1. 17/05784/FUL, Erection of new sports hall building including changing rooms, lockers, toilets and 2 classrooms/studios with teachers offices, removal of three tennis courts to enable relocation of grass pitch, new multi-use games area and re-arrangement of parking spaces adjacent to the chapel, permitted June 2019.

4.2. The implementation of this planning permission has commenced.

5. Issues and Policy considerations

Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), CP7 (Delivering the infrastructure to support growth), CP9 (Sense of Place)
DSA: DM12 (Green Space)

5.1. The principle of the development has been assessed and found to be acceptable under the previous approved application. Therefore it is only the change to condition 15 that can be assessed.

5.2. Sport England have said that they would object to the complete removal of the condition as they seek certainty for the delivery of the replacement playing field. They would however, not object to the replacement playing field being provided within a later timeframe in order to enable works to be prioritised for the completion of other sports facilities. Sport England have suggested a variation to the condition rather than its removal so that the playing field is provided at either a pre-occupation stage or within a specified period.

5.3. In order to ensure that the development does not result in the loss of a playing field, it is recommended that the condition be varied to require that the new pitch is ready before the new sports hall or multi-use games area is first used.

5.4. The proposed condition variation application does not have any implications in terms of:-

- Archaeology
- Place making and design
- Landscaping and landscape issues
- Ecology
- Historic environment (Conservation area and listed building issues)
- Building sustainability
- Infrastructure and developer contributions

Transport matters and parking

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth), DM33 (Managing Carbon Emissions, Transport and Energy Generation)
DSA: DM2 (Transport requirements of development sites)

5.5. The previous application was acceptable in relation to highway safety, vehicle access arrangements and parking provision.

5.6. A number of neighbours have commented that constructing both the new playing pitch

and sports hall should not occur at the same time and that vehicle access to the site is dangerous. The reason for condition 15 was not in relation to construction traffic or residential amenity, but was instead to ensure that there was no loss of playing field land.

- 5.7. The applicant has highlighted that if the implementation timing for the playing pitch is not varied, then there would be additional construction vehicle movements needed to remove excess rubble and bring in new soil. These could amount to 250 truck movements – the equivalent of 10-15 truck movements per day for approximately 4 weeks.
- 5.8. The Highway Authority has confirmed that the alteration of condition 15 would not have a material or detrimental impact upon highway issues. They do not have any objection or conditions to recommend for the variation of condition.
- 5.9. It is necessary to ensure that the development is carried out in accordance with the construction traffic management plan which has already been approved.

Amenity of existing residents

Wycombe District Local Plan (August 2019): DM20 (Matters to be determined in accordance with the National Planning Policy Framework), DM35 (Placemaking and Design Quality),

- 5.10. It is unfortunately inevitable that there will be some disturbance from construction. However, the construction of both the new sports hall and playing pitch concurrently would not result in significant adverse impacts on the amenities of neighbouring properties. A refusal could not be justified on these grounds.
- 5.11. If the condition was not altered then there is the potential for additional construction disturbance and associated air pollution from the extra lorry movements that would occur from having to import soil onto the site and remove excess rubble.
- 5.12. Comments have been made relating to residential outlook and residents having to look onto a muddy construction site. The loss of a view is not a planning issue that can be taken into account and in any event is a temporary situation while construction takes place.
- 5.13. The loss of value to property is also not a planning issue that can be taken into account.

Flooding and drainage

Wycombe District Local Plan (August 2019): DM39 (Managing Flood Risk and Sustainable Drainage Systems)

- 5.14. The local planning authority made an error and omitted to attach conditions relating to a surface water drainage on the previous planning application.
- 5.15. Local plan policy DM39 requires that all development incorporates the use of sustainable drainage systems (SuDS) in order to ensure mitigation and adaptation to climate change.
- 5.16. The Lead Local Flood Authority have suggested planning conditions relating to securing the final details of a surface water drainage scheme and its proper implementation and future maintenance. Such conditions are necessary to ensure a satisfactory solution to managing potential flood risk and should be imposed if the variation is granted.

Consideration of previously imposed conditions

- 5.17. Each of the previously imposed conditions need to be considered and whether they can be imposed unchanged; needs to be imposed in a modified form to reflect the current stage of development or to refer to details approved under the previous permission.
- 5.18. Condition 1 – time limit. A section 73 application cannot be used to extend the time period for implementation beyond that of the original permission. However, because

the development has already commenced for the original permission a time limit condition is not needed.

- 5.19. Condition 2 – approved plans. This condition should be imposed unchanged to provide clarity on approved drawings.
- 5.20. Condition 3 – approval of materials. This condition should be imposed unchanged.
- 5.21. Condition 4 - sample panel. This condition should be imposed unchanged.
- 5.22. Condition 5 – typical details. This condition should be imposed but modified to reflect that the details have been approved under the previous permission by condition application PI19/01487/ADRC.
- 5.23. Condition 6 – landscaping scheme. This condition should be imposed but modified to reflect that the details have been approved under the previous permission by condition application PI19/01487/ADRC.
- 5.24. Condition 7 – landscaping implementation. This condition should be imposed unchanged.
- 5.25. Condition 8 – tree protection. This condition should be imposed but modified to reflect that the details have been approved under the previous permission by condition application PI19/01062/ADRC.
- 5.26. Condition 9 – arboricultural supervision. This condition should be imposed unchanged.
- 5.27. Condition 10 – sports hall air ventilation system. This condition should be imposed unchanged.
- 5.28. Condition 11 – sports hall sound insulation scheme. This condition should be imposed unchanged.
- 5.29. Condition 12 – parking and turning areas. This condition should be imposed unchanged.
- 5.30. Condition 13 – construction traffic management plan. This condition should be imposed but modified to reflect that the details have been approved under the previous permission by condition application PI19/01062/ADRC.
- 5.31. Condition 14 – playing pitch ground conditions assessment. This condition should be imposed but modified to reflect that the details have been approved under the previous permission by condition applications PI19/01021/ADRC and PI19/01561/ADRC.
- 5.32. Condition 15 – implementation timing of playing pitch. This condition should be imposed in a modified form.
- 5.33. Condition 16 – flood lighting. This condition should be imposed unchanged.
- 5.34. Condition 17 – electric vehicle charging points. This condition should be imposed unchanged.

Conclusion

- 5.35. The proposal would accord with development plan policies and there are no other material considerations including the National Planning Policy Framework that indicate that planning permission should not be granted.

Recommendation: Application Permitted

- 1 The development shall be built in accordance with the details contained in the planning application hereby approved and plan numbers 1601-SD-002, 1601-SD-003A, 1601-SD-004A, 1601-SD-005B, 1601-SD-006B, 1601-SD-007B, 1601-SD-008B, 1601-SD-009B, 1601-SD-010, 1601-P-001A, 1601-P-002, 1601-P-003A, 1601-P-004A and 1606-P-001 Rev B unless the local planning authority otherwise first agrees in writing.

Reason: In the interests of proper planning and to ensure a satisfactory development of the site.

- 2 Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the local planning authority before any work to the external finish of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.
Reason: To secure a satisfactory external appearance.
- 3 Prior to construction of the new sports hall, sample panels of the external materials shall be constructed on site and shall be approved in writing by the local planning authority. Thereafter the development shall only be carried out in accordance with the approved details.
Reason: To secure a high standard of design and external appearance and to ensure an appropriate quality of workmanship and building details.
- 4 The development shall not be carried out other than in accordance with the typical building details illustrated on drawings A-DD-SH-010, A-DD-SH-011, A-DD-SH-012, A-DD-SH-013, A-DD-SH-014, A-DD-SH-015, A-DD-SH-20, A-DD-SH-21, A-DD-SH-030, A-DD-SH-031, A-DD-SH-040, A-DD-SH-041, A-DD-SH-042, 1905-DR-002, 1905-DR-005 and 1905-DR-007, submitted and approved under conditions application PI19/01487/ADRC.
Reason: To secure a high quality standard of design and external appearance and to ensure an appropriate quality of workmanship and building details.
- 5 The development shall not be carried out other than in accordance with the approved detailed landscaping scheme illustrated on drawings SC128-SD-SW-002 Softworks, SC128-SD-HW-001 Hardworks, SC128-SD-SEC-001 and SC128-SD-SEC-002 Typical landscape sections, submitted and approved under conditions application PI19/01487/ADRC.
Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.
- 6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 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, unless the local planning authority first gives written consent to any variation.
Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.
- 7 The development shall not be carried out other than in accordance with the approved scheme for the protection of retained trees illustrated on drawings 1606-P-001 Rev B, 1606-P-002 Rev A and 1606-P-003 Rev B and contained within the Arboricultural Impact Assessment and Method Statement dated March 2019, submitted and approved under conditions application PI19/01062/ADRC.
Reason: To protect and enhance the appearance and character of the site and locality.
- 8 The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved under condition 7 shall be submitted to and approved in writing by the local planning authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.
Reason: In order to ensure compliance with the tree protection and arboricultural supervision details submitted under condition 7.

- 9 Details of any air ventilation system(s) shall be submitted to and approved in writing by the local planning authority before the new sports hall building is first used. The facilities shall be provided in accordance with the approved details and implemented before the development is first used and retained as such thereafter.
Reason: To protect the amenities of occupiers.
- 10 A scheme for sound insulation from the building shall be submitted to and approved in writing by the local planning authority before the new sports hall building is first used. The building shall not be used until the approved scheme has been fully implemented and shall be retained as such thereafter.
Reason: To protect the occupants of nearby residential properties from noise disturbance.
- 11 The scheme for parking, manoeuvring and the loading and unloading of vehicles as shown on the submitted plans shall be laid out prior to first use of the sports hall hereby permitted and those areas shall not thereafter be used for any other purpose.
Reason: To enable vehicles to draw off, park, load/unload and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.
- 12 The development shall not be carried out other than in accordance with the approved Construction Traffic Management Plan by Simpson dated September 2019 (ref P17-017 Rev 2) and illustrated on drawing 1606-P-002 Rev A, submitted and approved under conditions application PI19/01062/ADRC.
Reason: In order to minimise the danger, obstruction and inconvenience to users of the highway and of the development.
- 13 The development shall not be carried out other than in accordance with the detailed assessment of ground conditions of the playing field land contained within the TGMS report dated 16 June 2019 (ref 1170.1) and illustrated on drawing WB19007 01 REV A, submitted and approved under conditions application PI19/01021ADRC and PI19/1561/ADRC.
Reason: To ensure that the new playing field is implemented to an adequate standard that is fit for purpose.
- 14 The playing field hereby permitted shall be implemented and available for use before either the new sports hall or the multi-use games area is first used, unless otherwise first agreed in writing by the local planning authority.
Reason: To ensure that the proposal does not result in the loss of or prejudice the use of playing fields.
- 15 No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the local planning authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior written approval of the local planning authority other than for routine maintenance which does not change its details.
Reason: In the interests of visual amenity.
- 16 Prior to first use of the sports hall building, 3 electric vehicle charging points must be installed. Thereafter the electric vehicle charging points must be maintained in full working order.
Reason: To minimise the impact on the health of residents living within the Air Quality Management Area and to make provision for alternative vehicle types and fuels.
- 17 Within one month of the date of this planning permission a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Infiltration rate testing in accordance with BRE 365 with no extrapolation of results
- Ground investigation report from 2014 to show the groundwater level monitoring
- Full construction details of all SuDS and drainage components
- Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
- Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.
- Flow depth
- Flow volume
- Flow velocity
- Flow direction

Reason: To ensure that a sustainable drainage strategy has been agreed prior to construction in accordance with Paragraph 163 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

- 18 Prior to first use of the development, a demonstration (such as as-built drawings and/or photographic evidence) of the as-built surface water drainage scheme carried out by a suitably qualified person must be submitted to and approved by the local planning authority to demonstrate that the sustainable drainage system has been constructed as per the agreed scheme.

Reason: To ensure the sustainable drainage system has been constructed as per the approved is designed to the technical standards.

INFORMATIVE(S)

- 1 In accordance with paragraph 38 of the NPPF2 Wycombe District Council (WDC) approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. WDC work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 2 It is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.
- 3 No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980.
- 4 The applicant is advised that the scheme should comply with the relevant technical guidance, including guidance published by Sport England and National Governing Bodies for Sport. Particular attention is drawn to "Natural Turf for Sport" (Sport England 2011).