



Appeal Decision

Inquiry held on 6, 7 and 18 May 2010

Site visit made on 18 May 2010

by **K Nield BSc(Econ) DipTP CDipAF MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 June 2010

Appeal Ref: APP/H2835/A/09/2119346

Wellingborough School, Irthlingborough Road, Wellingborough, Northamptonshire, NN8 2BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wellingborough School against the decision of Borough Council of Wellingborough.
- The application Ref WP/2009/0176/F, dated 21 May 2009, was refused by notice dated 12 August 2009.
- The development proposed is described in the application as the construction of a new vehicular access off London Road, including alterations to the existing highway, alterations to the layout and resurfacing of the existing car park and provision of replacement tennis courts (3 no).

Application for costs

1. At the Inquiry an application for a partial award of costs was made by Wellingborough School against the Borough Council of Wellingborough. This application is the subject of a separate Decision.

Decision

2. I allow the appeal and grant planning permission for the construction of a new vehicular access off London Road, including alterations to the existing highway, alterations to the layout and resurfacing of the existing car park and provision of replacement tennis courts (3 no) at Wellingborough School, Irthlingborough Road, Wellingborough, Northamptonshire, NN8 2BX in accordance with the terms of the application (Ref WP/2009/0176/F, dated 21 May 2009) and the details submitted therewith and thereafter¹ and subject to conditions set out at Annex A to this decision.

Procedural Matters

3. The appellant was stated on the application as Mr Mike Skidmore, Bursar and Clerk to the Governors on behalf of Wellingborough School. It was agreed by the parties that the appellant would be more appropriately stated in this Decision as Wellingborough School.
4. A signed and dated Agreement prepared under the provisions of Section 106 of the Town and Country Planning Act, as amended (s106 Agreement), was submitted by the appellant to the Inquiry². I will treat that as a material consideration in the determination of the appeal.

¹ Drawing 2903P/13: Car park proposals plan

² Document 2

5. At the Inquiry the appellant submitted Drawing 2903P/13: *Car park proposals plan*. The drawing, which indicated outline landscaping arrangements for the car park, had been the subject of prior discussion between the parties and the Council did not object to its submission to the Inquiry. As the drawing provided supporting information that did not alter the basis of the appeal scheme I consider that its submission did not conflict with the tests laid down by the Courts in *Wheatcroft V SSE*³ and, consequently, I have taken it into account in my decision.

Preliminary Matters

6. Prior to the Inquiry the Council withdrew the first element of Reason 2 of its Reasons for Refusal of the application in respect of the effect of the scheme on highway safety.
7. There is no issue between the parties in respect of the proposed alterations to the layout and resurfacing of the existing car park and the provision of replacement tennis courts within the school grounds. I have no reason to reach a different view in respect of those matters. Consequently, I shall concentrate in my decision on the provision of a new vehicular access to the school from London Road, including alterations to the existing highway.

Main Issues

8. A considerable amount of Inquiry time was taken up through the consideration of the potential need and urgency for a new access to the school and whether there are other viable options to the appeal scheme. As those matters have an effect on other issues I will consider them as a main issue.
9. The other main issues in this appeal are:
- (i) the effect on the character and appearance of London Road including its effect on the avenue of lime trees, and
 - (ii) the effect on sustainability including its effect on car borne journeys in the light of national and local planning policy.

Reasons

Need for a new access

10. The present access and egress arrangements for Wellingborough School are described in the SCG⁴. There is no dispute between the principal parties that the present arrangements are unsatisfactory in that they give rise to conflict between pedestrians/cyclists and vehicles within the main school site, particularly at peak drop-off and pick-up times. The present arrangement also significantly contributes to congestion on Irthlingborough Road at those times. The parties agree that there is no viable and feasible option to improve the access arrangements from Irthlingborough Road and I see no reason to differ.
11. I noted the deficiencies of the present arrangement at a site visit conducted during the peak morning drop-off period. Vehicles travel from the

³ Bernard Wheatcroft Ltd v SSE (reported in Journal of Planning Law 1982, P37)

⁴ Statement of Common Ground (SCG)

Irthlingborough Road access through the school site to the main car park and by means of a one-way system back through the school to the separate egress to Irthlingborough Road. Despite attempts to segregate traffic from pedestrians I have no doubts that there is currently a significant risk to the safety of pedestrians within the school grounds from the present unsatisfactory arrangements. I note in this respect that the youngest children at the school are aged 3.

12. The SCG notes that health and safety issues have arisen for the school through the potential for pedestrian/vehicle conflict and have been identified as needing to be addressed in Independent Schools Inspectorate (ISI) reports following school inspections in 2003 and 2009. The most recent report notes that the issue of vehicles on the main school site "*is dealt with as safely as possible by careful organisation of pedestrian crossings and pathways. However, the school's sustained efforts to obtain planning permission from the Local Authority for a new access have so far been unsuccessful*"⁵. I consider this is a telling comment from the ISI which adds to earlier comment and which, together, add considerable weight to the need for the scheme.
13. The Council contends that there may be alternatives to the appeal scheme. It put forward two options. Firstly, an access from Embankment, a road to the south-east of the school site and secondly, an "all movement" access from London Road in the same position as the appeal scheme. Neither scheme had been designed in detail by the Council to ascertain whether it was deliverable and there had been no discussions with the various parties who would have an involvement in either option.
14. With regard to the Embankment option it is clear from the evidence that there are a number of constraints in regard to the implementation of an access from that road including the potential need for third party land, the relationship to the nearby Wellingborough East access arrangement, the likely need for a road/pathway within the school site which could affect sports facilities and its location within the 1:100 year floodplain of the River Nene. Whilst I accept that none of these matters may be insurmountable, collectively they do not persuade me that this option would be viable and deliverable in a reasonable time scale.
15. I accept that a suggested "all movement" access from London Road would potentially have a lesser effect on trees and the hedgerow within The Walks than the appeal scheme as it could require less space. However, the evidence suggests that such an option is not favoured by the Local Highway Authority. The reported view of the relevant officer from the Local Highway Authority who attended the site meeting was that "*the proposed left-in/left-out access arrangement (the appeal scheme) was the best scenario and the only solution acceptable to the Highway Authority*"⁶.
16. In the light of all of the above factors I consider that neither of the options advanced by the Council can be considered as deliverable within a reasonable time frame although they may be in the longer term. In contrast the appeal scheme is deliverable at present and satisfies the requirements of the Local

⁵ Paragraph 3.6 Inspection Report on Wellingborough School 2009 prepared by Independent Schools Inspectorate

⁶ Report of Site Viewing Group Visits 11 August 2009

Highway Authority. In consequence, I have attached very little weight to the Council's contention that there may be viable alternatives to the appeal scheme. Notwithstanding the above I have determined the appeal scheme on its individual merits.

17. I conclude on this issue that there is a need for the provision of a new access to the school in the interests of highway safety and the free flow of traffic on Irthlingborough Road and the appeal scheme provides a deliverable option within a reasonable time scale.

Character and appearance

18. The proposed access from London Road would cut across a double avenue of lime trees alongside London Road within which is a walkway/cycleway known as The Walks which is Victorian in origin⁷. Although most of the original trees remain there are now some gaps within the avenue. This is particularly noticeable to the south of the proposed access in the vicinity of The Dog and Duck Public House where there is a substantial access to various facilities.
19. The trees within the avenue have been inspected for the appellant by a respected arboriculturalist and there is no dispute between the parties that the general condition and health of the trees within The Walks is in decline and that a programme of management and maintenance is required. The Council indicated that it has been unable to maintain the trees due to a lack of resources⁸.
20. To the road side of the western avenue of trees is a hedge which runs almost the full length of The Walks, albeit with several breaks along its length. I accept that the hedge, although probably of later origin than the trees, is integral to the overall appearance of The Walks, contributing to the pleasant ambience and character as it provides some privacy and protection from nearby traffic on London Road for those walking and cycling. Nevertheless it is visually subservient to the trees.
21. Although clearly valued by a number of local organisations, local councillors and individuals, some of whom appeared at the Inquiry, The Walks has no formal protection (either through a Tree Preservation Order or identification within the development plan) to indicate any landscape, heritage or amenity value. That reduces the weight I attach to the Council's contentions as to the landscape value of the double avenue of trees.
22. The appeal scheme would remove 3 lime trees in the western line of trees together with a section of hedging (approximately 46 metres) and 1 lime tree in the eastern line alongside the school boundary. The parties agree that no other trees would be affected if the recommendations of the appellant's arboriculturalist in that regard are followed⁹.
23. Viewed from close proximity from London Road and from within The Walks the gap that would be formed in the double avenue of trees would be visually prominent. However, when viewed at an oblique angle in the wider context of The Walks as a whole, on approach in either direction along London Road or at

⁷ Indicated as originating in 1838 in the Report to Planning Committee

⁸ Evidence of Mrs Webber

⁹ Agreed in SCG

a distance from within The Walks, the proposed access would have a far lesser visual impact. From within the school grounds the visual effect would be also be less through the loss of a single tree in the eastern line of trees. Consequently, in my assessment of the effect of the scheme on The Walks as an entity I am more persuaded by the appellant's comprehensive evidence and assessment compared to the more limited visual assessment from London Road undertaken by the Council.

24. The Councils accept that in oblique views from London Road the canopy of trees would not be visually broken¹⁰. The loss of a single tree in the eastern avenue would not, to my mind lead to a significant weakening of the role of the avenue providing enclosure to the boundary of the school.
25. The proposed access across The Walks would have a visual and physical impact through the form and treatment of the surface and the installation of various street furniture including guardrails and signage. Nevertheless, I agree with the view of the appellant¹¹ that these changes would not significantly detract from the overall character of the longer views along The Walks seen as a long, linear space framed by the trees and their arched canopies.
26. Traffic using the access would detract from the visual quality of The Walks but in the main that would be concentrated in peak drop-off and pick-up times. At other times vehicular use of the access would not be sustained or intensive and the pleasant character and ambience of The Walks would be maintained for the most part.
27. I conclude on this issue that whilst the scheme would give rise to some limited harm to the character and appearance of London Road (in respect of the immediate area of the access to The Walks) it would not have a materially harmful effect on the overall integrity of the double avenue of trees or weaken its heritage and landscape role as an entrance to the town centre. Consequently, whilst there would be some limited conflict with the aims of NNCS¹² policy 13 (criteria (o), (h) and (i)) the harm I have identified would not, on its own, lead me to dismiss this appeal.

Sustainability

28. In considering the issue of sustainability I am guided by the advice in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) which indicates (at paragraph 3) that "*sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone now and for future generations*".
29. At paragraph 5, PPS1 sets out ways planning can facilitate and promote sustainable and inclusive patterns of development. Amongst other matters it indicates that development can support and contribute to the creation of safe and sustainable communities with good access to jobs and key services.
30. It is common ground between the parties that the appeal scheme would lead to an increase of some 330 km vehicle miles travelled each school day as vehicles

¹⁰ Mrs Webber - cross examination

¹¹ Mr Crawford - Evidence

¹² North Northamptonshire Core Spatial Strategy (June 2008) (NNCS)

would be required to take longer routes to accommodate the left-in/left-out arrangement at the access.

31. I accept that this level of additional travel is significant and should be taken into account in the assessment of the effect of the scheme on sustainability. Nevertheless a number of other factors, to my mind, should also be taken into account. Of most significance in my view is that the scheme would improve safety within the school grounds by greatly reducing vehicle and pedestrian conflict and allowing for safer access to the school for staff and pupils. This meets the aim set out in PPS1. Other factors such as reducing vehicle queuing and delays at the existing junction with Irthlingborough Road would also assist with improving sustainability around the school. To my mind these factors outweigh the effect of the increase in vehicle mileage that the appeal scheme would entail.
32. The parties agreed that the two alternative access arrangement suggested by the Council (discussed above) would both lead to less additional vehicle miles than the appeal scheme. However, in the light of my conclusions that neither of those options was deliverable in the short term I have not attached significant weight to the Council's contentions in that respect.
33. Taking all the above factors into consideration I conclude on this issue that on balance the appeal scheme would not have a harmful effect on sustainability and would not conflict materially with NNCSS policy 13 (criterion (e)) or EMRP¹³ policy 2.

Other Matters

34. The submitted s106 Agreement, in the event of the appeal being allowed, provides for two planning obligations. Firstly, a financial contribution of £7,500 in favour of the Council towards management and maintenance works to the double avenue of lime trees where it adjoins the school boundary and secondly, a financial contribution of up to £5,500 in favour of NCC¹⁴ (as the Local Highway Authority) to relocate a bus lay-by, provide a bus shelter and a "real-time" travel information display unit at the shelter.
35. NNCSS policy 6 (Infrastructure Delivery and Developer Contributions) and LP¹⁵ saved policy G25 (Implementation), taken together, provide development plan policy support for the requirement of the financial contributions for infrastructure. Consequently, I am satisfied from the submissions made at the Inquiry that the s106 Agreement meets the tests set out in Circular 05/2005: *Planning Obligations*.

Conditions

36. The parties jointly suggested¹⁶ a number of conditions in the event that the appeal is successful. I will impose a condition to define the approved drawings. In addition, conditions to require details of the surfacing materials and treatment of the access road where it crosses The Walks and in respect of the proposed provision and maintenance of landscaping together with an

¹³ East Midlands Regional Plan March 2009 (EMRP)

¹⁴ Northamptonshire County Council

¹⁵ Borough of Wellingborough Local Plan (LP)

¹⁶ Contained in the Statement of Common Ground and as revised in Document 18

Arboricultural Method Statement are all necessary to protect the visual amenity and character of the area.

37. A condition to require a scheme indicating details of lighting of the car park is necessary in the interests of visual amenity and for personal safety and security reasons. Finally, I will attach a condition to require a scheme of traffic control measures to restrict the future use of the existing accesses from Irthlingborough Road (following the opening of the new access from London Road) to be submitted to and approved by the Local Planning Authority in the interests of highway safety and to assist the free flow of traffic on Irthlingborough Road.

Overall Conclusions

38. I have identified some limited harm to the character and appearance of London Road including its effect on The Walks defined by the double avenue of lime trees. The harm I identified does not outweigh the positive benefits that would flow from the scheme particularly in respect of a safer access arrangement for the school.
39. In my view there is a clear need for a safe means of access to the school which reduces vehicle/pedestrian conflict within the school grounds and the appeal scheme is the only option which is deliverable at present and gains the support of the Local Highway Authority. In addition I have identified benefits to wider sustainability interests around the school and the s106 Agreement would provide some funding towards management and maintenance works to the double avenue of lime trees which will assist their longevity. Taken together those are significant factors which outweigh the limited harm I have identified.
40. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Kevin Nield

INSPECTOR

ANNEXE A

SCHEDULE OF CONDITIONS FOR APP/H2835/A/09/2119346

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans (16397/08 Rev E (Access Details), S05 (Site Location Plan), S06 (Existing Site Plan/Topographical Survey), SK18 Rev A (Layout Plan), SK19 Rev A (Layout Plan) and 2903P/13 (Car Park Proposals Plan).
3. Full details of the surfacing materials and treatment of the proposed access road where it crosses The Walks and the design and appearance of the guardrails to protect pedestrians and cyclists shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The development shall be carried out in accordance with the approved details.
4. A scheme indicating details of hard and soft landscaping, including surfacing and boundary treatments and the design of the railings and gate at the proposed entrance to the school grounds, shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The scheme should be broadly in accordance with the principles shown in Drawing 2903P/13: *Car Park Proposals Plan* and the submitted details shall include planting plans with details of tree planting (indicating positions or density, species and planting size); written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and the implementation programme.
5. All landscape works shall be carried out in accordance with the approved details and programme. Any trees or plants that, within a period of five years after planting, are removed, die or become in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced in the next available planting season with others of the species, size and number as originally proposed unless the Local Planning Authority gives its written consent to any variation.
6. No development shall be commenced until an Arboricultural Method Statement in relation to the trees shown as retained on the approved drawings has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the model format provided by CBA Trees incorporating recommendations in BS 5837:2005 and include measures to protect the retained trees, both during the construction of the new access and against increased exposure following the removal of the trees required to construct the access. The development shall be carried out in accordance with the approved Method Statement.

7. Before the development hereby approved is commenced a scheme indicating details of lighting of the car park shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full before the access from London Road hereby permitted is brought into first use by the public.

8. Before the development hereby approved is commenced a scheme of traffic control measures to restrict the future use of the existing accesses from Irthlingborough Road, following the opening of the new access from London Road, shall be submitted to and approved in writing by the Local Planning Authority. The traffic control measures shall be implemented in full as approved before the access from London Road hereby permitted is brought into first use by the public and shall thereafter be retained.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth, of Counsel	Instructed by Solicitor, Borough Council of Wellingborough, The Council Offices, Swanspool House, Doddington Road, Wellingborough, NN8 1BP
He called	
Felicity Webber CMLI	Landscape Officer, Borough Council of Wellingborough
Justice Nyakatawa, BSc, MSc	Development Control Officer, Borough Council of Wellingborough
Peter Kelly MICE, MIHT	Director, BCAL Consulting, Lloyds Bank Chambers, Market Street, Wellingborough, NN8 1AA

FOR THE APPELLANT:

John Edmond, Solicitor, LARTPI	Marrons Solicitors, 1 Meridian South, Meridian Business Park, Leicester, LE19 1WY
He called	
Charles Crawford, MA Cantab, Dip LA, CMLI	Director, LDA Design, 17 Minster Precincts, Peterborough, PE1 1XX
Michael Parkinson, CEng, MIHT, MIRSO	Partner, Peter Brett Associates LLP, 11 Prospect Court, Courteenhall Road, Blisworth, Northampton, NN7 3DG
Geoff Bolton, BSc, DipTP, MRTPI	SSR Planning, Cottage Farm, Sywell, Northampton, NN6 0BJ

INTERESTED PERSONS:

Judith Thompson
Wendy Brackenbury
Barry Billett
Councillor John H Bailey
Councillor Martin Andrews,
Ian Nunney
Susan Suttle

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 The Council's Inquiry Notification letter dated 12 April 2010 and list of consultees
- 2 Copy of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended)
- 3 Copy of letter dated 30 April 2010 from Marrons Solicitors to The Planning Inspectorate in respect of an application for partial costs against the Borough Council of Wellingborough
- 4 Written statement of Councillor John H Bailey, Leader, Borough Council of Wellingborough
- 5 Written statement of Councillor Martin Andrews and Councillor Malcolm Ward, Borough Council of Wellingborough
- 6 Drawing 16397/14: Land ownership plan – land adjacent to The Embankment
- 7 Drawing 2903P/13: Car Park Proposals Plan
- 8 Council of Wellingborough, Report of Executive Director to Regulatory Committee in respect of Application Ref: WP/2005/0815/F - Land at Knapp Tool Making Limited, London Road, Wellingborough.
- 9 Bundle of letters submitted by the appellant in support of the appeal scheme
- 10 East Midlands Regional Plan: March 2009 – Government Office for the East Midlands
- 11 Written statement of Susan Suttle
- 12 Agreed additional travel distances for various access arrangement options
- 13 Addendum statement from Charles Crawford, LDA Design in respect of North Northamptonshire Core Spatial Strategy Policy 13
- 14 North Northamptonshire Joint Planning Unit – Sustainable Design Supplementary Planning document
- 15 Model Arboricultural Development Statement prepared by CBA Trees
- 16 Extract from North Northamptonshire Core Spatial Strategy June 2008 in respect of delivering infrastructure
- 17 Extract from Borough of Wellingborough Local Plan – Policy G25 in respect of Implementation and Monitoring
- 18 Revised suggested planning conditions agreed by the principal parties dated 18 May 2010
- 19 E-mail correspondence from Geoff Bolton, SSR Planning to Head of Built Environment, Borough Council of Wellingborough (submitted by the appellant in respect of the costs application)