



24 February 2015

Agenda Item:7

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

MANSFIELD DISTRICT REF. NO.: 2/2014/0723/NT

**PROPOSAL: TO RETAIN EXISTING TEMPORARY CLASSROOM AND TO VARY
CONDITION 2 OF PLANNING PERMISSION 2/2011/0489/NT TO CEASE
MAINTAINING THE SOFT LANDSCAPING AND ALLOW THE GRASS
TO GROW**

**LOCATION: LEAS PARK JUNIOR SCHOOL, LEY LANE
MANSFIELD WOODHOUSE**

APPLICANT: NCC CHILDREN, FAMILIES AND CULTURAL SERVICES

Purpose of Report

1. To consider a planning application for the retention of a mobile classroom for a further three years, and the removal of Condition 2 of Planning Permission Ref: 2/2011/0489/NT which requires the implementation and maintenance of planting and landscaping works. The key issues relate to surface water run-off, flooding and residential amenity. It is recommended that planning permission is granted subject to the conditions at Appendix 2.

The Site and Surroundings

2. The planning application site is Leas Park Junior School, which is part of a large school campus located within the urban boundary of Mansfield Woodhouse (see Plan 1). The wider school campus also contains Yeoman Park Special School, Nettleworth Infant and Nursery School, and to the north is the Manor Academy. Leas Park lies to the south-east. The wider area is residential in character.
3. With regard to the immediate surroundings, to the south of Leas Park Junior School are residential properties and commercial premises on Ley Lane. There are also residential properties to the east and north east on Ley Lane and Rolaine Close. Nettleworth Infant and Nursery School and Yeoman Park Special School are located immediately to the west, and playing fields associated with Manor Academy are located to the north. The school is accessed to the south, off Ley Lane, and it shares the access with Nettleworth School.

4. The school site comprises a main school building, which is of a single storey CLASP construction, and the mobile classroom subject to this application. There are areas of hard surfaced playground to the north-east of the main school building, and grassed playing field area to the north. To the south of the school building is car parking and the access road off Ley Lane. There are a number of trees to the north-east and east of the main school building, on the grass and hard surfaced play areas. There is also tree planting along the access road to the south of the school building. The school site is secured by green pallas fencing. In terms of topography the site is generally flat, with a very gentle slope from west to east.
5. There are residential properties immediately bordering the site to the south, east and north-east. The properties closest to the modular classroom subject to this application are located to the north-east, with the nearest rear garden approximately 35m distant and the nearest property 41m distant. These properties are separated from the school by wooden fencing and a separate green pallas fence. At the base of the fencing within the school site there is border planting measuring between 0.5-1m in width containing low level shrub plants, some of which have failed.
6. The nearest sensitive receptors are Park Hall Lake Local Wildlife Site (LWS), a lake and drains with notable aquatic and marsh communities, approximately 1.05km to the north-east of the school site; and Sherwood Colliery LWS, a former colliery spoil heap supporting a rich assemblage of breeding birds, approximately 1km to the south-west.
7. Approximately 90m to the south east of the mobile classroom (and 50m from the boundary of the school) is the Mansfield Woodhouse Conservation Area. Within the conservation area there are a number of listed buildings, the nearest being approximate 50m east of the school access road.
8. The mobile classroom is located within an area designated as protected school/college playing field, as shown on the Mansfield Local Plan Proposals Map.
9. The site is within Flood Zone 1, having a low probability (less than 1 in 1,000 annual probability) of flooding from rivers or sea.

Proposed Development

Background

10. Leas Park Junior School was originally built as a 240 place junior school, with a Published Admission Number (PAN) of 60, which means there is an annual intake of 60 pupils. However, approximately 10 years ago the PAN was increased to 70, to bring it into line with the adjacent feeder school, Nettleworth Infant and Nursery School. This took Leas Park up to a 280 place junior school. In order to accommodate the additional pupils a mobile classroom was provided.
11. As a result of the increase in pupils, the school utilises spare space within the school, including the shared spaces such as the library, corridors, ICT room and

hall, as classroom spaces. The mobile classroom provides a small group room area; an inclusion and Special Educational Needs (SEN) space; Planning, Preparation and Assessment (PPA) space; and peripatetic teacher space. The mobile classroom is subject to a full timetable and is currently used for:

- a) Music lessons;
 - b) Teaching Assistant (TA) group work;
 - c) School Nurse 'drop in' clinic for parents;
 - d) Meetings during the school day with parents and other professionals;
 - e) Teachers' Planning, Preparation and Assessment (PPA) time.
12. Planning permission was granted (Ref: 2/2011/0489/NT) for the retention of the mobile classroom on 30th September 2011. The planning permission was subject to two conditions. The first limited the life of the permission for the classroom to 31st December 2014. The second condition required soft landscaping works adjacent to the site boundary at the rear of properties 15-21 Rolaine Close. It is noted that the most recent planning permission for the mobile classroom has now expired, although the application subject to this report was submitted prior to its expiry.
13. It is of note that the previous planning permission (among other issues) was subject to a complaint to the Local Government Ombudsman (LGO). The complaint focused on a number of issues, particularly:
- a) Failure to engage with residents when considering an application for the retention of a temporary classroom at a neighbouring school;
 - b) Failure to notify residents about an application for the retention of a temporary classroom at another neighbouring school;
 - c) Granting of planning permission contrary to planning policy;
 - d) Failure to honour a commitment to do with the maintenance of trees;
 - e) Misleading information to do with the installation of a sports facility at a third school and also about the County Council's complaints procedure.
14. In summary, the LGO concluded that there was no prospect that an investigation by the LGO would establish that the actions of the Council had resulted in any significant degree of injustice to the complainant.
15. A further complaint was raised in 2014 with the LGO in relation to the planting required by Condition 2 of the mobile classroom permission. The planting was carried out in the summer of 2012, and it was brought to the attention of NCC in 2013 that the planting had failed. The area was replanted that autumn, and again it was brought to the attention of NCC that the planting had failed. The area was replanted, but again failed. Photographs showing stretches of failed planting are attached at Appendix 1

16. A request was made that enforcement action was taken. The County Council's Monitoring and Enforcement Officers were of the view that there was no breach of condition, because the planting had been carried out and replanted as required by condition.
17. The LGO again chose not to investigate the complaint, concluding that the Council's decision not to take planning enforcement action against a planning condition requiring landscaping would not be investigated as no evidence of any fault in how it had taken its decision had been seen. The LGO also noted that the complainant had provided no evidence to indicate what injustice had been suffered. The decision that the Council had taken could not be criticised.

Proposed Development

18. This application is seeking planning permission to retain the existing mobile classroom for a further 3 years.
19. Planning Permission is also sought to vary Condition 2 of the extant planning permission, so that the planting scheme required under that condition no longer has to be maintained and the grass can be reinstated.

Consultations

20. **Mansfield District Council** – No objection.
21. **Environment Agency** – No comments.
22. **NCC (Built Heritage)** – There is no impact on the setting of any designated heritage assets.
23. **NCC (Highways) Mansfield** – No objection.
24. **National Grid (Gas)** – No objection.
25. No representation has been received from **Severn Trent Water Limited, Western Power Distribution, Police Force Architectural Liaison Officer, and NCC (Road Safety)**. Any representations received will be reported orally.

Publicity

26. The application has been publicised by means of site notices and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement. A total of two letters have been received, both raise concerns with the proposed development. One of the letters has six signatories and states that the letter represents a joint view, but each signature represents an individual comment (it is for this reason that the application is referred to Committee for determination). The second letter is written by one of the signatories of the joint letter, but is supplemental to and independent from the other letter.
27. The objections made in the representations are summarised below:

- a) A number of properties share a boundary with the school and it can have an impact on the individual homes and lives of the neighbours. In an ideal situation the further children play from the fence the less the likelihood that damage to property would occur, particularly from throwing stones.
- b) Residents seek assurances that complaints about children throwing projectiles are not met with solicitor's letters from Nottinghamshire County Council seeking proof of allegations.
- c) If the classroom remains in its current position children would continue to play right up to the fence and the likelihood of items being thrown over the fence into rear gardens would remain.
- d) If the classroom remains in its current position the likelihood of potential flooding of the residents' of Rolaine Close would remain at an increased level.
- e) The wilful destruction of shrubs running parallel to the boundary fence further increases the likelihood of flooding.
- f) Objection to the cessation of maintaining the landscaping and returning it to grass. Nothing has changed since the previous planning application to alter the reason for attaching it.
- g) There is a discrepancy between the planning application forms and the supporting statement. The forms state that surface water is dealt with by a sustainable drainage system. The supporting statement states that surface water is directed into the main surface water drain.
- h) Item 15 (trees and hedges) on the planning application form has not been completed, as such, the application is incomplete.
- i) The planting adjacent to properties was expected to grow to 1-1.5m in height to provide residential amenity. Removal of the planting would remove residential amenity.
- j) The planting scheme did not fail, it was trampled by children because the Council did nothing to protect the plants. This scheme cost thousands to implement, and this has been wasted.
- k) The planting scheme has not taken away valuable playing field space, the planting area only takes up approximately 70m² which is equivalent to 5 parking bays. The school discarded large amounts of land when erecting the security fence.
- l) It is unclear why the application is seeking to cease maintaining the soft landscaping, when the current planning permission expires on the 31st December 2014 and the requirements of the planning permission will cease to have effect on the date the permission expires.
- m) The most recent planning permission was granted in August 2011 and 15 months later the planting was carried out in December 2012.

28. The suggestions made within the letters are summarised below:
- a) It is suggested that the mobile classroom is relocated to another part of the school site. This would move the activity of pupils away from the fence and allow rainwater more of an opportunity to soak into the ground.
 - b) Further tree maintenance and a reduced tree canopy would release more airborne space for school activities and indirectly free more ground space. This would allow residents to gain more sunlight on their properties and would decrease the amount of leaves that blight gardens and fill gutters.
 - c) It is suggested that the landscaping condition is reintroduced as a fresh condition attached to a new planning permission.
29. Councillors Joyce Bosnjak JP and Parry Tsimbiridis have been notified of the application.
30. The issues raised are considered in the Observations Section of this report.

Observations

Introduction

31. The planning application is for the retention of an existing mobile classroom at Leas Park Junior School in Mansfield Woodhouse. It also seeks to remove the need to maintain landscaping along the eastern boundary of the site, at the rear of properties on Rolaine Close.

Policy

32. The relevant policies against which the development should be assessed are those that have been saved from the Mansfield District Local Plan (adopted November 1998). Particularly relevant is Policy LT7 (Protection of school / college playing fields) which states that planning permission will not be granted for development which would lead to the loss of playing fields unless they would only result in the loss of a small part of the area used for recreational purposes and meet one of a number of criteria, including being for educational use essential for the continued operation of the establishment. The classroom is being retained, so the application would not result in the actual loss of any playing field. In addition, the building only occupies a small area and is also for an essential educational purpose. As such, the development is in accordance with Policy LT7.
33. Other policies of note are summarised below:
34. Policy BE1 (Design Criteria for New Developments) promotes a high standard of design which meets a series of criteria relating to:
- a) Scale, density, massing, height, layout and access relating well to neighbouring buildings;
 - b) Materials in keeping with surroundings;
 - c) Hard and soft landscaping consistent with the type and design of the development; and

- d) The proposal should integrate well with the surrounding landscape and nature conservation features.
35. Policy ECH1 (Criteria for the development of community facilities) relates to the provision of community facilities and states that permission shall be granted for such development which is inside the urban boundary; integrates with the existing pattern of settlement and surrounding land use; and does not have a detrimental effect on the character, quality and amenity of the surrounding area; is located where there is easy access to public transport; and regard is had to safety/security and public transport.
36. Policy U5 (Water Discharge and Flooding) states that planning permission will not be granted for developments on sites where the discharge of additional surface water would exacerbate existing flooding problems or create new flooding problems, unless infrastructure improvements are provided.
37. The National Planning Policy Framework (NPPF) attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and local authorities should take a proactive, positive and collaborative approach to meeting this requirement. The mobile classroom provides a wide range of functions, from teaching space to a planning and preparation facility. The retention of the mobile classroom would allow these functions to continue and is, therefore, supported in principle by the NPPF. Great weight should be given to the need to create, expand or alter schools. In a letter to Chief Planning Officers, the Secretary of State for Communities and Local Government has stated that there should be a presumption in favour of the development of state-funded schools and the delivery of development that has a positive impact on the community.

Design

38. The existing building is a relatively small single storey building, located within a wider school campus of similar buildings. It is of a scale, density, massing, height and layout that relates well to the surrounding buildings. Access is easily gained from within the Leas Park school site. The materials used in the mobile classroom are similar to those used in adjacent mobile classrooms. The immediate surroundings of the mobile classroom are hard surfaced access paths and playing field and are, as such, consistent with the type of surroundings expected for a mobile classroom. There are no nature conservation features for the classroom to integrate with, however, the building integrates appropriately with the surrounding school buildings. In light of this, the development complies with Policy BE1 and the NPPF's requirement for good design.
39. The proposed development meets the relevant criteria of Policy ECH1 as it is located within the urban boundary; it integrates well with the existing settlement pattern; there is no detrimental effect on the character, quality and amenity of the surrounding area. In addition, there are bus stops nearby on Albert Street and Portland Street, to the south-west, giving users easy access to public transport.
40. Notwithstanding the acceptability of the design, the exterior condition of the mobile classroom is deteriorating, which has a minor adverse visual impact. However, there is only limited visibility of the mobile classroom from outside of the

wider school campus. Some residents on the western side of Rolaine Close back onto the school and there would be some views of the building from these properties. However, it is very important to recognise that the mobile classroom is single storey and the properties on Rolaine Close are bungalows. In addition, there is wooden fencing approximately two metres high separating the properties from the school and providing substantial screening of the mobile classroom. As such, the visual impact on these properties is considered negligible.

41. Planning permission is sought to retain the mobile classroom for a temporary period limited to three years. The design of the mobile classroom is acceptable, but the condition is poor. As such, should planning permission be granted it is recommended that a condition is attached to ensure that the rendering of the building is brought up to an acceptable standard within 3 months of the planning permission being granted.
42. One of the matters raised in the public comments is an objection to the removal of the planting that runs along the rear of properties on Rolaine Close. The comments highlight that the planting was expected to grow to between 1-1.5 metres in height to provide residential amenity. Members are advised that the planting was specified in an attempt to offer some attenuation to surface water impacts cited in representations at the time of the 2011 planning permission, rather than providing any visual amenity benefits.
43. Firstly, much of the planting has not established, and that which has is not between 1-1.5m in height (see photographs at Appendix 1). It is not providing any visual amenity benefits in its current state. Secondly, even if the planting had fully established and grown to full height, the existing fencing along the rear of the properties on Rolaine Close is higher and would fully obscure the planting. From a visual perspective, the planting has no amenity benefit for the residents of Rolaine Close.

Surface Water and Flooding

44. The key issue raised in the public consultation responses is in relation to surface water flooding, as there have been instances of surface water affecting the properties of Rolaine Close in the past.
45. Firstly, an inconsistency between the planning application forms and the supporting statement is highlighted, with the supporting statement identifying surface water being directed to the school main drain, and the forms stating that it runs to a soakaway. This matter has been clarified with the applicant and surface water from the mobile classroom is directed into the main drain. The surface water that falls on the hard surfacing surrounding the mobile classroom partially drains to the main drain, and partially runs off to the adjacent playing field.
46. It is recognised that a number of the residents of Rolaine Close have experienced surface water flooding at times of extreme rainfall events. It is also apparent that the direction of flow of water is from the adjacent schools (including Manor Academy) and potentially from higher levels outside of the shared school campus. This is because the land has a slight slope from west to east, towards the properties. The central issue raised by the residents is that the mobile classroom

has an adverse impact, contributing towards the surface water flooding their properties.

47. The concern raised by the residents is understood. However, the surface area covered by the classroom is approximately 75m² and is separated from the properties by approximately 35m of grassed playing field. In the context of the wider school, the contribution that this mobile classroom would have in the wider contexts is considered minimal. This would be the case if the classroom had no drainage. However, it is fundamental to recognise that the mobile classroom does have surface water drainage, which drains immediately to the main school drainage system. The surface water that would fall on the ground and eventually run towards the properties of Rolaine Close if the classroom was not present, is actually removed to mains drainage immediately. This means, the presence of the mobile classroom actually reduces surface water runoff towards the properties on Rolaine Close, having a positive effect.
48. Policy U5 of the Mansfield District Local Plan seeks to prevent development on sites where the discharge of additional surface water would exacerbate existing flooding problems or create new flooding problems. Given the proposal would result in the retention of an existing building it would not result in any 'additional' surface water over and above existing levels. Furthermore, even if it was considered as new development, as highlighted above, the development is considered to have a positive effect on localised surface water runoff. As such, the policy is of marginal significance, and the development does not conflict with it.
49. Concern has also been raised about the removal of the need to maintain the planting along the rear gardens of Rolaine Close. This is because the planting is seen to provide some form of mitigation for surface water run-off.
50. Firstly, the planting strip in its current state with a significant proportion of it having failed (despite replanting twice having been carried out), provides no real surface water attenuation, particularly when intense periods of heavy rainfall are experienced. Secondly, it is the opinion of the officers that even if the planting had fully established, the level of surface water attenuation that would be provided is so low as to be negligible. Whilst some plant failures have been attributable to trampling by children using the adjacent soft play area, the Head Teacher has consistently opposed the erection of protective fencing in order to avoid possible risk of injury to children.
51. Paragraph 206 of the NPPF specifies that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In the knowledge that the mobile classroom actually reduces surface water run-off, and that the planting has failed after planting and twice after replanting, it is the view of planning officers that the condition is not necessary and, therefore, does not strictly meet the requirement for conditions as set out in the NPPF. Furthermore, and as referenced above, the planting does not provide any visual amenity benefit. As such, it is recommended that a planting condition is not attached to any future permission granted for the retention of the mobile classroom.

Other Issues

52. Residents have suggested that the mobile classroom is moved from its current location, to one further from residents' gardens. Whilst the planning authority can explore and suggest amendments to applications to achieve improvements or make a development acceptable, overall the role of the planning authority is to determine applications as submitted. In this case, the development is deemed acceptable in this location, so the suggestion of moving the classroom has not been further explored. As noted above, relocating the mobile classroom could marginally worsen surface water run-off impacts given the development links in to the main drain.
53. A further suggestion by residents is that tree maintenance is carried out to free up space, allow properties to benefit from more sunlight and reduce leaves affecting properties. Such a requirement has no relevance to the retention of the mobile classroom and imposing a requirement to carry out these works would not meet the tests for planning conditions set out in of the NPPF, as referenced above.
54. Residents have claimed that children throw objects and items into the rear garden of properties on Rolaine Close. Any such alleged incidents are management issues for the school, and the concerns have been directly raised with the Head Teacher, however, it is considered that the removal or relocation of the mobile classroom would not change this alleged behaviour. Any legal exchange in relation to this is not a matter for consideration in determining this application.

Conclusion

55. The existing mobile classroom serves an important function for the school, acting as a space for a range of activities including lessons, meetings, and preparation space. This is in the context of a school that has limited space.
56. The design of the building is acceptable, and whilst the fabric of the building is worn, this can be addressed by a suitable condition. The visual impact on local residents is negligible.
57. The mobile classroom does not have an adverse impact on surface water flooding, in fact it helps to divert surface water straight to drains having a small positive impact on localised surface water run-off. The existing planting to the rear of the gardens of Rolaine Close has failed despite repeated replanting and it is considered that it provides no significant mitigation effects particularly in extreme rainfall events. It is therefore not considered necessary to re-impose the condition for the maintenance of the soft landscaping.
58. In light of the above, it is recommended that planning permission is granted subject to the conditions recommended in Appendix 2.

Other Options Considered

59. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

60. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

61. The retention of the mobile classroom would maintain the provision of an existing facility for pupil education and associated activities.

Financial, Equalities, Safeguarding of Children, Human Resources, and Sustainability and the Environment Implications

62. No implications.

Crime and Disorder Implications

63. The mobile classroom is located within the school site and benefits from the existing security fencing of the school. There are no known crime and disorder issues associated with the building.

Human Rights Implications

64. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

Statement of Positive and Proactive Engagement

65. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 2. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

The proposals in this report fall within the remit of this Committee.

[SMG 04/02/2015]

Comments of the Service Director - Finance

There are no specific financial implications arising directly from this report.

[SEM 04/02/15]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division(s) and Member(s) Affected

Mansfield North – Councillor Joyce Bosnjak JP

Mansfield North – Councillor Parry Tsimbirdis

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For any enquiries about this report, please contact the report author.

W001388 – DLGS REFERENCE

APPENDIX 1

PHOTOGRAPHS SHOWING STRETCHES OF FAILED PLANTING ADJACENT THE REAR OF PROPERTIES ON ROLAINE CLOSE



RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall be for a temporary period only, expiring on 31 December 2017 by which time the building shall have been removed and the site reinstated to grass playing field unless prior written permission has been obtained from the CPA for its retention.

Reason: The development hereby permitted is not considered suitable for permanent retention by reason of its external appearance and type of construction.

2. Within three months of the commencement of the development hereby permitted, the rendered external walls of the building shall be repaired.

Reason: To maintain the condition of the mobile classroom and minimise visual impact.