

Development Control Committee **10 July 2024**

Planning Application DC/23/1111/FUL – Mildenhall Academy, Sheldrick Way, Mildenhall

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|-------------------------|--|------------------------|-------------------------------------|
| Date registered: | 15 August 2023 | Expiry date: | 11 October 2023 EOT 12 July 2024 |
| Case officer: | Connor Vince | Recommendation: | Approve application |
| Parish: | Mildenhall | Ward: | Mildenhall Queensway |
| Proposal: | Planning application - installation of two portacabins for 104 weeks with associated pedestrian access | | |
| Site: | Mildenhall Academy, Sheldrick Way, Mildenhall | | |
| Applicant: | Academy Transformation Trust | | |

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: democratic.services@westsuffolk.gov.uk

Telephone: 01284 757373

Background:

This application is before Development Control Committee as the application is on land owned by West Suffolk Council.

Mildenhall High Town Council 'support' the proposal and the application is recommended by officers for approval.

Proposal:

1. Planning permission is sought for the installation of two single storey portacabin buildings to be used as double classrooms for the students of Mildenhall College Academy. The application states that temporary planning permission is sought for 104 weeks.
2. The application is retrospective, as the portacabin buildings had been installed prior to the start of the 2023/2024 academic year in September 2023.
3. The property is owned by West Suffolk Council. The applicant has served notice on West Suffolk Council as landowner through Certificate B. It is for this reason that the matter is before the Development Control Committee.

Application supporting material:

4. Application Form
Design and Access Statement
Existing Location and Block Plan
Proposed Location and Block Plan
Proposed Elevations and Floor Plans
Preliminary Ecological Appraisal
Arboricultural Impact Assessment
Tree Protections Plans
5. The full list of approved plans and documents, which are relevant to the proposed development are detailed in full within Condition 2 in the recommendations section of the report.

Site details:

6. The application site is within the Mildenhall settlement boundary and forms part of the wider Mildenhall Hub site, within the grounds of Mildenhall Academy.
7. The two portacabin buildings are situated on an existing grassed area, to the south-east of the primary Academy building and hard-surfaced basketball courts.

Planning history:

8.

| Reference | Proposal | Status | Decision date |
|----------------|---|------------------------|---------------------|
| DC/17/1106/FUL | Planning Application - Construction of Mildenhall Hub to include Office, Leisure, Health, | Application Granted | 24 November 2017 |

Emergency and Educational Facilities with associated external works including revised vehicle access from Sheldrick Way, new vehicle parking area, a Sustainable Urban Drainage scheme, 3g Playing Pitch and provision of new Public Plazas.

Consultations:

9. Place Services Trees:

- The site is heavily vegetated to the boundaries many of which are visible in the local area contributing to the amenity of the area. Trees can be impacted by construction through root severance, changes to the root environment, compaction through the movement and storage of plant, damage through harmful construction practices, contamination due to spillage of fuel or other materials, unsympathetic facilitation pruning, and direct damage to the stem and crown. An Arboricultural Impact Assessment (AIA) with a Tree Survey, a Tree Constraints Plan (TCP) and a Tree Protection Plan (TPP) have been submitted as part of the application.
- The AIA, TCP and TPP indicates that the trees are situated on the west and south of the proposed portacabins. According to the TPP, there is no encroachment of the proposal to the Root Protection Areas (RPAs) of adjacent trees. The TPP also demonstrates suitable specification of tree protection fencing in accordance with BS5837:2012 to mitigate the potential root severance. This should be used throughout the demolition and construction phases and placed as shown on the TPP.
- According to Section 6 of the AIA, no trees required to be removed to implement the proposals. Although the current crown spread of T7 is close to the building line, this tree has a high crown clearance which there is no requirement to undertake pruning to the retained trees. It is also outlined that underground services are not to be routed through the RPAs of any retained trees which is appropriate.

10. Place Services Ecology:

- We have reviewed the Preliminary Ecological Appraisal (Collington Winter, August 2023) relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.
- We are satisfied that there is sufficient ecological information available for determination of this application.
- The site is approximately 1.4 kilometres from Breckland SPA and Breckland Forest SSSI. With reference to Natural England's Annex A guidance on ruling out impacts of small scale development to Breckland SPA (Feb 2023), this application is within the 1.5km constraint zone around the SPA and is located within a West Suffolk Market Town, which is

listed in Table 3. Using DEFRA's Geographic Information tool MAGIC the LPA do not need to consult Natural England on this application prior to determination.

- The ecological report has assessed the site in relation to suitability for ground nesting birds, stating the site is unsuitable for use by ground nesting birds. Due to the type of proposals, scale and location, within the grounds of an existing school, we are satisfied this development can be screened out at HRA Stage 1 (no Likely Significant Effect on Stone Curlew when considered in combination with other plans and projects).
- Whilst not specifically clear from the ecological report or plans, the Design and Access Statement shows the adjacent line of trees will be retained. The Preliminary Ecological Appraisal (Collington Winter, August 2023) states these trees have low bat roost potential. We are satisfied that if the trees are retained there is no need for further surveys for bats to be undertaken. An increase in artificial light would negatively impact foraging, commuting and roosting bats. We recommend lighting details are outlined within a wildlife sensitive lighting scheme, in line with best practice guidance GN:08/23 from the Institute of Lighting Professionals¹ and secured by a condition of any consent.
- As stated within the Preliminary Ecological Appraisal (Collington Winter, August 2023) standard pollution control measures should be implemented due to the River Lark being located approximately 130 metres south.
- This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- The mitigation measures identified in the Preliminary Ecological Appraisal (Collington Winter, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, reptiles, Badger, Hedgehog and breeding birds.
- Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 180d and 186d of the National Planning Policy Framework December 2023, biodiversity enhancement measures will need to be provided. The biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent. It is recommended that this could also include provision of bat and bird boxes. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

10.Sport England:

- 05 September 2023: Sport England raises no objection to this application. Whilst it does not meet any of our policy exceptions or the criteria set out under paragraph 99 of the National Planning Policy Framework, due to the fact that the playing field will be lost for 52 weeks with no replacement or

mitigation, and the fact that there is no community use, in this instance Sport England is willing to consider a departure from our usual policy subject to conditions being imposed requiring the playing field's full reinstatement once the temporary period has expired (including both its condition and a suitable timeframe).

30 April 2024: Sport England has no comments to make on this additional information consultation (*Officer Note – that consultation relating to the fact that the proposal is now for a period of two years, not one*).

Therefore, please refer to Sport England's previous responses for our current position on this application which for the benefit of doubt have not been superseded and remain extant.

11. Public Health and Housing:

- 31 August 2023: I have reviewed the above application and on behalf of the Private Sector Housing and Environmental Health (PSH & EH) Team can confirm I would have NO OBJECTIONS to the proposed installation of two portacabins with associated pedestrian access SUBJECT TO an appropriately worded condition that limits this permission to 52 weeks as per the time-limited permission requested.

24 June 2024: I can confirm I would still have NO OBJECTIONS for the following reason:

- I am satisfied that the use of the proposed portacabins is unlikely to have an adverse impact in terms of noise / other nuisance or residential amenity, in the context that they are relatively de minimis to the overall site of the Mildenhall Academy (even over the extended period now requested).

As before, this is SUBJECT TO an appropriately worded condition that limits this permission to 104 weeks as per the amended time-limited permission requested."

12. Suffolk Fire & Rescue:

- No objections

13. Suffolk Highways:

- Notice is hereby given that the County Council as Highway Authority does not wish to restrict the grant of permission due to the application not having a detrimental effect upon the adopted highway.

14. Environment Team:

- Based on the submitted information for the above site, including the temporary nature and limited change of use, this Service is satisfied that the risk from contaminated land is low.

Representations:

15. Mildenhall High Town Council:

11 September 2023: "SUPPORT, however there was disappointment that the portacabins are already in use before the application had been considered."

16 May 2024: "Support."

16. Ward Member(s): No comments received.

17. No letters of representation have been received from any members of the public.

18. **Policy:** On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved Forest Heath District Council.

19. The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

Forest Heath Core Strategy – CS2 Natural Environment

Forest Heath Core Strategy – CS5 Design Quality

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places Development Principles and Local Distinctiveness

Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Policy DM13 Landscape Features

Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Policy DM41 Community Facilities and Services

Other planning policy:

20. The NPPF was revised in December 2023 and is a material consideration in decision making from the day of its publication. Paragraph 225 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

21. The issues to be considered in the determination of the application are:
- Principle of Development
 - Impact on Character and Appearance of the Local Area
 - Amenity Impacts
 - Ecological Impacts
 - Other Matters

Principle of Development

22. Core Strategy policy CS2 states areas of areas of landscape, biodiversity and geodiversity interest and local distinctiveness within the district will be protected from harm and their restoration, enhancement and expansion will be encouraged and sought through a variety of measures.
23. Core Strategy CS5 states all new development should be designed to a high quality and reinforce local distinctiveness. Design that does not demonstrate it has regard to local context and fails to enhance the character, appearance and environmental quality of an area will not be acceptable.
24. Joint Development Management Policy DM1 states "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework."
25. Policy DM2 states proposals for all development should... "recognise and address the key features, characteristics, landscape/townscape character, local distinctiveness and special qualities of the area.
26. Policy DM41 states "the provision and enhancement of community facilities and services will be permitted where they contribute to the quality of community life and the maintenance of sustainable communities." The application proposes the construction of two, single storey portacabin buildings with associated pathway on land associated with Mildenhall Academy, for a period of 104 weeks. The application is

retrospective, with the portacabins believed to have been installed in August 2023 in preparation for the 2023/2024 academic year. Certainly they had both been installed on 17 August when Officers visited the site. As per section 2 of the Design and Access Statement, the long term plan is for the main school building to be extended, and which will accommodate the extra pupil numbers. Once said extension is built (which at present does not benefit from planning permission), both units will be removed from site. As it stands, a planning application has not been submitted for the extension, however, it is believed that there is enough time for one to be submitted, decided upon, and constructed before the expiry of this planning application. In any event, whilst the portacabins are utilitarian in their appearance, officers do not consider there to be any adverse impacts associated with their existence in their current location noting the temporary nature of the proposal.

27. Their appearance and other material planning impacts are considered in later paragraphs. However, Officers are content to proceed with a temporary permission being given from the date of determination of the application, in the event the application is granted by the Committee. Therefore, the temporary consent would cease in July 2026. The specific wording of this condition can be found in the recommendations section below.
28. The portacabins are to act as classrooms. As per Section 2 of the submitted Design and Access Statement, the buildings are required as "Student numbers have been on the rise for a while and from the start of the September 2023 term, Mildenhall College Academy has taken on extra persons. As the school has been at capacity, in order to accept and accommodate the numbers, the proposed Portakabin buildings have been installed. This will allow the academy to continue functioning to its maximum capability." No increase in staff numbers is proposed, with no more than 32 persons using either building.
29. The applicant's long-term plan, as per the aforementioned statement, is to extend the main building to the north-west to provide the additional classrooms and space required, currently facilitated by these portacabins.
30. The buildings are utilitarian in their appearance and form. However, given the temporary nature of their proposed use, and the support gained from DM41, as well as their modest scale and location within an established school site, the proposal is considered to be acceptable in principle, subject to other material planning considerations as will be discussed below.

Impact on Character and Appearance of the Local Area

31. Policy DM2 states proposals for all development should... "recognise and address the key features, characteristics, landscape/townscape character, local distinctiveness and special qualities of the area." Moreover, policy DM13 states development will be permitted where it will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife, or amenity value.

32. The application site is heavily vegetated to the western, southern and eastern boundaries, which are visible to residential properties and the wider Mildenhall Hub site and undoubtedly contribute to the amenity of the area. However, glimpsed views of the portacabins are achievable via the public right of way, off-site to the south. Given the modest scale of the cabins and their location within an established school site, and noting the temporary nature of the consent, any harm arising in this regard is considered to be moderate, and not at a level that would come close to justifying a refusal of permission.
33. An Arboricultural Impact Assessment (AIA) with a Tree Survey, a Tree Constraints Plan (TCP) and a Tree Protection Plan (TPP) have been submitted as part of the application. The AIA, TCP and TPP indicate that the trees most at risk during installation are situated on the west and south of the proposed portacabins.
34. As per the TPP, there is no encroachment of the proposal to the Root Protection Areas (RPAs) of adjacent trees. The TPP also demonstrates suitable specification of tree protection fencing in to mitigate the potential root severance. No trees are proposed to be removed as part of this proposal.
35. Given the application is retrospective and the conditions refer to protection measures during the construction of the portacabins, the conditions are now obsolete. However, Officers are content that no harm has been caused to the aforementioned trees. The proposal is therefore in accordance with policies DM2 and DM13.

Amenity Impacts

36. Policy DM2 seeks to secure development proposals which do not have an adverse impact on existing or proposed residential amenity. Furthermore, Policy DM14 requires that all applications where the existence of pollution is suspected (for example, in this case, noise from the utilisation of the adjacent skatepark, and play areas) to contain sufficient information to enable the Authority to make a full assessment of potential hazards.
37. Public Health and Housing do not object to the application. The use is consistent with that of the wider site, with no additional material adverse impacts associated with noise to nearby residents. The closest residential receptor to the portacabins would be 170 metres due east across the playing field. The proposal is therefore considered to comply with the provisions of policies DM2 and DM14.

Ecological Impacts

38. As required by the National Planning Policy Framework the LPA have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, DM10, DM11 and DM12. Biodiversity Net Gain does not apply in this case as the application was submitted prior to this requirement becoming applicable to planning applications.

39. The National Planning Policy Framework indicates that when determining planning applications, local planning authorities must aim to conserve and enhance biodiversity and that opportunities to incorporate biodiversity in and around developments should be encouraged.
40. A Preliminary Ecological Appraisal has been submitted alongside the application. As per Place Services Ecology's comments, the site is approximately 1.4 kilometres from Breckland SPA and Breckland Forest SSSI. With reference to Natural England's Annex A guidance on ruling out impacts of small scale development to Breckland SPA (Feb 2023), this application is within the 1.5km constraint zone around the SPA and is located within a West Suffolk Market Town.
41. Given the context of the proposal, no likely significant impacts are considered to arise in relation to Stone Curlew, when considered in combination with other plans and projects. Furthermore, given that no trees are to be felled, the Ecological Consultant is content that no further surveys are required in relation to bats. Biodiversity enhancement measures are recommended and have been conditioned below. The Ecological consultant has also requested a condition requiring a wildlife sensitive lighting strategy to be submitted to the LPA. This has also been conditioned. The application is therefore in compliance with the provisions of policies CS2, DM10, DM11, DM12 and the NPPF.

Other Matters

42. Policy DM42 states proposals for the provision, enhancement and/or expansion of amenity, sport or recreation open space or facilities will be permitted subject to compliance with other Policies in this and other adopted Local Plans. Development which will result in the loss of existing amenity, sport or recreation open space or facilities will not be allowed unless:
 - a. it can be demonstrated that the space or facility is surplus to requirement against the local planning authority's standards for the particular location, and the proposed loss will not result in a likely shortfall during the plan period; or
 - b. replacement for the space or facilities lost is made available, of at least equivalent quantity and quality, and in a suitable location to meet the needs of users of the existing space or facility.
43. Sport England initially queried the loss of playing fields in its formal comments. However, having received an updated block plan and statement from the applicant, as well as the revised timescales for the temporary consent, Sport England notes that there will be a temporary loss of playing field space, albeit it does not raise any formal objection. As such, given the modest encroachment into the aforementioned playing fields and the temporary nature of the consent, there will be no permanent loss of open space. Therefore, the proposal complies with the provisions of Policy DM42. Officers also note the consent for the portacabins will be temporary, as per condition one below. Officers further note the applicant's longer-term goal to construct a permanent

extension. However, given the moderate harm from utilitarian proposals of this nature it is worth noting that successive extensions to the temporary consent are unlikely to be granted. Nonetheless, the two year timeframe that consent would be granted for, on top of the timescale the cabins have already been onsite for, would appear to offer ample time for steps towards the provision of a permanent extension to the school to be progressed.

Conclusion:

44. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework. Whilst the portacabins are utilitarian in appearance, the portacabins allow Mildenhall Academy to facilitate the increase in student numbers and therefore engender some social and educational benefits. Officers therefore conclude that the very modest harm associated with the structures is justified via the temporary consent, detailed within condition 1 below.

Recommendation:

45. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. On or before the 12 July 2026, the buildings hereby permitted shall be removed and the land shall be restored to its condition. If the need ceases prior to the duration of the consent, the buildings shall be removed within 3 months of the last use.

Reason: The building is not considered suitable as a permanent form of development.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

| Plan type | Reference | Date received |
|-------------------------------------|---------------------------|----------------------|
| Amended Location and Block Plan | RC220210693 ELBP REV B | 13 September 2023 |
| Amended Floor Plans | RC220210693 PLBP REV B | 13 September 2023 |
| Proposed Elevations and Floor Plans | HD/9254/01 | 17 July 2023 |
| Proposed Elevations and Floor Plans | HD/9254/02 | 17 July 2023 |
| Tree Protection Plan 1 | CE-MH-2506- ADW01 | 11 March 2024 |
| Tree Protection Plan 2 | CE-MH-2506- ADW01 | 11 March 2024 |

| | | |
|-------------------------------------|-------------------|------------------|
| Arboricultural Impact Assessment | CE-MH-2506-RP01 | 11 March 2024 |
| Amended Design and Access Statement | | 17 May 2024 |
| Preliminary Ecological Appraisal | CW20-1132 RPT 001 | 26 February 2024 |
| Application form | | 17 July 2023 |

Reason: To define the scope and extent of this permission, in accordance with policy DM1 and DM2 of the West Suffolk Joint Development Management Policies Document 2015 and all relevant Core Strategy Policies.

3. All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal, reference CW20-1132 RPT 001, dated February 2024 as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policy DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Within 3 months of this permission, details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed. There shall be no occupation unless and until details of the biodiversity enhancement measures to be installed have been agreed in writing by the Local Planning Authority.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

5. Within 3 months of this permission, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with GN:08/23 and:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
 - b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their

territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority." #

Reason: To safeguard the visual amenities of the locality and the ecological value of the area, in accordance with policies DM2 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/23/1111/FUL](https://www.westsuffolk.gov.uk/DC/23/1111/FUL)