
Appeal Decision

Site visit made on 10 August 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 30 September 2016

Appeal Ref: APP/Z1510/W/16/3149750

Land rear of 94 Church Street, Bocking, Braintree CM7 5JY

- 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 Mr Tony Kelly (Narni Limited) against the decision of Braintree District Council.
 - The application Ref:16/00235/FUL, dated 10 February 2016, was refused by notice dated 22 March 2016.
 - The development proposed is the change of use of land from car park to Class B8 storage and re-profiling of part of site to reduce existing ground levels.
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Decision

1. The appeal is dismissed.

Procedural matter

2. On the planning application form the proposed development is described as 'Change of use for land rear of 94 Church Street', whereas the decision notice issued by the Council states 'Change of use of land from car park to Class B8 storage. Re-profiling of part of site to reduce existing ground levels'. This latter more accurately describes the development proposed and I note that the appellant has adopted this on the appeal form. I have therefore used the description used by the Council for the purposes of the appeal.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area and nearby heritage assets;
 - The effect of the proposed development on the living conditions of neighbouring residential properties, with particular regard to outlook, noise and disturbance; and
 - The effect of the development on highway safety.

Reasons

Character and appearance

4. The appeal site is a small parcel of land of approximately 400m², located to the rear of number 94 Church Street (the Rose and Crown public house) and adjacent to number 102 Church Street. It is accessed by a narrow, unmade,
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track that also gives access to a small number of houses, an electricity substation, and the car park for an adjacent recreation ground that is located behind Church Street to the north east. The site is presently surfaced in gravel and was formerly used as a car parking area for the Rose and Crown public house. At the time of my site visit it was enclosed by temporary weld mesh fencing where it adjoins the access track.

5. The appeal site lies adjacent to, but not within, the boundary of the Bocking Church Street Conservation Area and the Rose and Crown is a Grade II Listed Building. The conservation area has a mixed character with both commercial and residential buildings present. It is mainly linear, covering the buildings fronting Church Street. These are largely two storey in short terraces or semi-detached and detached form. There is a range of materials present including brick, render and weather boarding and, whilst there are varying building designs and ages, consistent building heights and proportions give the area a coherent appearance.
6. To the south and west of the appeal site are more recent, two storey, houses and flats arranged around cul-de-sacs and beyond the recreation ground are agricultural fields.
7. The development would introduce a further commercial use into the area which would have a different character from those currently present. There are very few details in the proposal of how the site would be laid out in terms of the number of structures that would be present or where vehicles would be parked or stored. However, it is proposed that sheds or purpose built storage containers would be brought onto the site. Although these would not exceed 2.5 metres in height, in terms of the built form, this style of building would be inconsistent with the more permanent buildings immediately adjoining the site. Additionally, the closest buildings to the site are residential properties and as such the commercial use would be remote from the other commercial uses on Church Road.
8. Whilst there is a side access and parking area for the public house located on it, the access track nevertheless has a more residential character than Church Road which provides a transition between the built up area of the town and the open recreation ground and agricultural fields beyond. The introduction of a group of temporary or re-locatable structures in connection with the storage use would appear incongruous within this context. This would be exacerbated by the proposed timber fence and gates to the front of the site which would be a stark and prominent feature at the end of the track. Although the development would not be readily visible from Church Road, it would be visible from the recreation ground and from a footpath link from the access track into the newer residential development in Carrington Way. Due to its nature, the development would be a visually jarring feature in the area.
9. The residential properties located on the access, whilst more recent than the buildings on Church Road, are within the conservation area and part of its established character and appearance. Whilst there are more limited views of the rear of the buildings on Church Road, these do occur from the recreation ground and the path through to Carrington Way. Due to its incongruous appearance, size and proximity to the boundary of the conservation area, the development would cause harm to the character and appearance of the conservation area and the way it is experienced.

10. Because of the separation distance from the Rose and Crown public house, the development would not be seen in conjunction with the principle elevations of the Grade II Listed Building but would be seen in the foreground of views to the rear from the recreation ground and footpath link to Carrington Way. However, it is also directly adjacent to the rear garden area of the public house which is an integral part of its setting. As such the development would have a slight negative effect on the setting of the listed building. I note that the public house has had a number of extensions to the rear, however, these have not reduced its significance as a heritage asset.
11. The proposed development would cause harm to the setting of the Listed Building and to the character and appearance of conservation area, and thereby their significance as heritage assets. Nevertheless, this harm would be less than substantial. Paragraph 134 of the National Planning Policy Framework (the Framework) requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
12. It is suggested that there is a need and demand for a facility of the type proposed due to the loss of lockup garages within the town. Whilst there is some evidence that planning permission has been granted for the redevelopment of garage sites within the town, this is not supported by evidence of the total stock of garages or occupancy levels of these. Whilst there is also some evidence that there is a demand for the type of facility proposed, the level of potential demand remains unclear. Consequently, I can give only limited weight to this potential benefit.
13. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This is reinforced by Paragraph 132 of the Framework which requires that great weight should be given to the conservation of heritages assets. The development would provide some limited benefit in terms of meeting a need for secure parking and storage facilities, however, this would not offset the identified harm to the adjacent heritage assets to which I must attach considerable importance and weight.
14. I therefore find that the proposed development would cause harm to the character and appearance of the area and nearby heritage assets. It would not meet the requirements of Saved Policies RLP36, RLP90 and RLP95 of the Braintree District Local Plan Review 2005 (DLP); and Policy CS9 of the Braintree Core Strategy 2011 (Core Strategy), which seek to ensure that new development is of a high standard of design that respects its context; does not have an unacceptable impact on the surrounding area; does not harm the setting of historic or important buildings; and does not detract from the character, appearance and essential features of conservation areas. The proposal would also be inconsistent with the requirements of the Framework that new development should achieve a high standard of design and to conserve and enhance the historic environment.

Living conditions of neighbouring residential properties

15. The development would be adjacent to residential properties on Carrington Way and also those located on the access track to the appeal site and the playing fields. These properties would have experienced a degree of disturbance from the previous use of the land as a car park in association with the Rose and Crown, however, this would have been primarily during the hours that the public house was open for business. The proposed storage and parking use would introduce a more random pattern of vehicle movements and if, as the appellant suggests there is a demand for storage for business uses, there would be additional vehicle movements early in the morning when tools or materials are being collected and loaded which would not have occurred with the public house use. This disturbance would be exacerbated if steel storage containers are used due to the acoustically resonant nature of these.
16. Background noise levels at the site were low during my site visit. The precise layout and form of the development is not specified but due to the small area of the site, noise generated on the site would be cause disturbance to the occupiers of the flats in Hanover Court and 102 Church Street regardless of the final configuration.
17. A number of windows in the upper floors of the flats in Hanover Court and Carrington Way overlook the site. Whilst it is proposed to enclose the site with a 1.8 metre fence this would not screen activities within the site from these upper floor windows. No details of storage structures or containers have been provided, however, the introduction of commercial storage containers would be inconsistent with the residential and recreational character of the area at the rear of these buildings and would introduce incongruous commercial structures into the outlook from the upper floor windows.
18. Although it is proposed that the ground level of the appeal site would be lowered at the end closest to Hanover Court, this would not mitigate the harm that would be caused by the increased disturbance from activity on the site or to the outlook from upper floor windows of the adjacent residential properties. I also note the appellant's point that they manage similar facilities elsewhere without complaints being received, however, I do not have details of these other facilities and, consequently, cannot be certain that the circumstances are comparable to the appeal site.
19. I conclude that the proposed development would cause harm to the living conditions of the occupiers of neighbouring residential properties with particular regard to noise disturbance and outlook. It would be contrary to the relevant requirements of Saved Policies RLP36 and RLP90 of the DLP which seek to ensure that new development does not adversely affect the living conditions of neighbouring occupiers. It would also be inconsistent with the requirements of the Framework which seeks a good standard of amenity for all occupiers.

Highway safety

20. The development would result in the loss of a car parking area that was previously used in association with the public house. At the time of my site visit the appeal site was enclosed by a temporary security fence and was not in use as parking for the public house. A small number of parking spaces were available adjacent to the side entrance to the Rose and Crown.

21. There are parking restrictions in the form of double yellow lines on the north west side of Church Street. On south east side, in vicinity of the Rose and Crown, there are no parking restrictions apart from within the bus stop located just to the south west. I saw during my site visit that Church Street was lightly trafficked and the available on-street parking was not heavily used. Whilst this does only represent a snapshot of the parking situation, and it is likely that in the evenings parking demand will be higher, nonetheless opportunities exist for on street parking. I also note that the Highway Authority have no objections to the proposal.
22. With regard to deliveries to the public house, the hatch entrance to the cellar is located near the front of the side elevation adjacent to Church Street. Because of this location, dray lorries and other delivery vehicles would stop on Church Street or the access track rather than service the public house from the car park area. The loss of the car parking area would consequently not affect servicing of the public house.
23. I therefore conclude that the proposed development would not lead to conditions that would be prejudicial to the safe operation of the highway in the vicinity of the appeal site.

Other matters

24. It is suggested by the Council that the loss of car parking could compromise the viability of the public house. The appellant, conversely, suggests that the public house is not viable at present and the development would subsidise its future operation. No substantive evidence relating to viability has been submitted by either party and no mechanism has been proposed to show how income from the proposed development would be linked to the operation of the public house. From the evidence, the appeal site has not been available for car parking for approximately a year and the public house was still operating at the time of my visit. Consequently, I can give little weight to these respective arguments.
25. There is no substantive evidence that would suggest that the proposal would result in the closure of the public house and, therefore, I find no conflict with RLP Saved Policy 151 or Core Strategy Policy CS11 which seek to retain community facilities and services.
26. The appellant suggests that there is a fallback position of erecting a fence to control access and utilising the land for car parking. Whilst there is a reasonable prospect that this would occur, and is this a material consideration to be taken into account, the resulting development would not be inherently less desirable than the appeal proposal and the existence of this fallback position does not lead me to a different conclusion on the main issues.

Conclusion

27. I have found that the proposed development would not cause harm to highway safety in the vicinity of the appeal site and that the proposal would not lead to the closure of the public house. However, the proposal would cause harm to the setting of the adjacent listed building and to the character and appearance of the adjacent Conservation Area. This weighs very heavily against the proposal, as does the harm to the living conditions of the occupiers of neighbouring residential properties.

28. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR