
Appeal Decision

Site visit made on 1 August 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/Q3115/W/17/3173058

Land adjacent to St Leonard's Church Hall, Prospect Place, Watlington, Oxon, OX49 5LX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Trustees of the Church Houses Charity (the Maria Cook Trust) against the decision of South Oxfordshire District Council.
 - The application Ref. P15/S0941/FUL, dated 24 March 2015, was refused by notice dated 20 October 2016.
 - The development proposed is the demolition of the existing St. Leonard's Church Hall, alterations to the car park, and construction of two dwellings (one four bedroom rectory and one five bedroom market unit) together with double garages, access, landscaping and boundary treatment works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing St. Leonard's Church Hall, alterations to the car park, and construction of two dwellings (one four bedroom rectory and one five bedroom market unit) together with double garages, access, landscaping and boundary treatment works, at Land adjacent to St Leonard's Church Hall, Prospect Place, Watlington, Oxon, OX49 5LX, in accordance with the terms of the application, Ref. P15/S0941/FUL, dated 24 March 2015, and the plans submitted with it, as amended, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. A Unilateral Undertaking in the form of a planning Obligation made under section 106 of the Act, signed by the appellants, the Diocesan Trustees (Oxford) Limited and the Oxford Diocesan Board of Finance, and dated 31 July 2017 has been submitted with the appeal documents. In general terms, the Undertaking covenants the landowners to use any capital sum which arises from the disposal of the dwellings to the charity and to be used only for the delivery of the St Leonard's Church development; improvements to the south porch and interior of St Leonard's Church; and recoupment schemes.
3. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

4. Based on the formal reason for refusal put forward by the Council the main issue is the effect of the proposed development on the character and appearance of the area, including those aspects of the Watlington

Conservation Area, and the setting of St. Leonard's Church, a Grade II* listed building.

5. The Parish Council and some local people also object to the loss of an existing area of open space and I will also consider this as a main issue.

Reasons

Background

6. St Leonard's Church lies within the northern part of the village of Watlington and is situated in a generally open area of mostly private land surrounded by residential development. The area around the church forms part of the Watlington Conservation Area. The Church itself is a listed building which sits in a churchyard containing many mature trees, grave stones, and a pedestrian access via a Lych Gate. The vehicular access to the church leads past the Lych Gate and then into an open area partly grassed and enclosed by trees which also contains a single storey church hall, of a relatively modern and utilitarian design, and a hard surfaced parking area. There is a narrow stream which runs along the south-east boundary of the site. At the time of my site visit the church hall was boarded up and fenced off to prevent use and the building was in a poor state of repair.
7. The appeal site comprises part of the open area and it is proposed to demolish the church hall and erect two detached houses, one of which would be retained as a rectory, and relocate and formalise the area of car parking to a space along the western edge of the site. The area of land that would lie between the proposed houses and the churchyard would be kept open and provision is made for a footpath across the site. There is an outstanding claim for the route of a public footpath running diagonally across the land which is a separate matter.
8. The appellants and St Leonard's Parochial Church Council (PCC) say that the proposal is part of a wider scheme to enable the church community to undertake essential repair work on the church building and equip the church with modern facilities and make it a vital cultural and community resource as well as a centre of worship. I understand that planning permission has been granted for the refurbishment work under planning permission P11/E2510. The appellant says that in this strategy the existing church hall is not needed and there is the opportunity to replace it with better development which in turn would generate funds to contribute towards the repair and improvements though the sale of the market dwelling, and also provide a rectory.

Policy context

9. The development plan for the area includes the South Oxfordshire Core strategy adopted in December 2012 and the South Oxfordshire Local Plan 2011. I understand that the Council are preparing a new South Oxfordshire Local Plan but as this appears to be at an early stage in the plan-making process and may change I am not able to afford it any weight. I also understand from the Parish Council's representations that the Watlington Neighbourhood Plan is going to proceed to a draft stage but I am unable to give this intention any weight at the moment as a planning consideration.
10. As the site lies within the settlement boundary of Watlington, the principle of some form of development in the locality of this larger village broadly accords

with Policy CSR1 of the Core Strategy and the main planning issues are concerned with local site specific aspects.

Loss of open area

11. Dealing with this issue first, the Parish Council says that the proposal conflicts with the provisions of saved policy CON16 of the adopted local plan. This Policy was not referred to by the Council in the formal reason for refusal. Further, as the Council's representations on the appeal were not accepted because of being submitted late, I can only consider the Council's stance on this policy from the officer report presented to the Planning Committee where the recommendation on the application was one for approval of the scheme subject to the completion of a legal agreement regarding the funds received from the disposal of the land.
12. Policy CON16 comes within the general heading of Common Land and indicates that new development on or affecting common land, village greens and other important spaces within settlements will not be permitted. I have not been advised that the appeal site is 'common land' or a 'village green' or has been designated as an important (open) space in any document in the development plan. Nevertheless, I note that the land around St Leonard's Church and the adjoining woodland was mentioned in the Watlington Conservation Area Character Appraisal 2011 as an important open space in the Conservation Area. Further, the 'Landscape Capacity Assessment for Sites on the Edge of the Larger Villages', produced in 2015 and commissioned by the Council, recognised the potential harm to the setting of the church that would be caused by new development. I also note that the Parish Council says that there has been public access over the appeal site for many years and a route of a public footpath over the appeal site has been claimed.
13. From my observations at the my site visit I considered the other areas of generally open land around the appeal site which comprised the church and church yard, a bungalow and large garden at Pound Close, and other more wooded land to the north-east. While these areas of land appear interlinked on a plan of the village, on the ground it appeared to me that the individual spaces have different functions and a separate character. While the appeal site physically adjoins the churchyard the collection of mostly yew trees within the churchyard means that the appeal site is a visually separate space.
14. Although I recognise the importance of the appeal site in its contribution to the wider space, I find that saved Policy CON16 does not result in a blanket restriction on any development on this site, but as part of an open area, should be protected from the *adverse* effects of development, as set out in the reasoned justification in paragraph 3.125 of the Policy. I will consider under the following issue whether any adverse effects arise.

Effect on the special character and appearance of the area

15. In assessing this effect, at my site visit I considered the proposal from the site itself, from the churchyard, and from other open land to the north and south of the site. I have paid special attention to the setting of St Leonard's Church and the church yard, including three other listed tombstones.
16. Adding to my assessment in paragraphs 12 and 13 above, the appeal site is visually and physically distinct from the church and churchyard. Although there

is some limited indivisibility between and below the canopies of the yew trees and from around the church, the presence of the existing village hall is seen but is not prominent. On the appeal site itself, the modern form of the church hall and the car parking area dominates the enclave of the open area. I have considered the impact of the church hall in a reasonable state, rather than the present vacant and poor state, as that appears to be the result of a management decision rather than inherent flaws in the fabric of the building. Nevertheless, I find that the present church hall does not contribute positively to the quality of the space in the conservation area. Likewise the parking area is an extensive and unrelieved expanse of tarmac which detracts from the quality of the space. Therefore, I see no objection in principle to the demolition of the existing building and the relocation and reforming of the car park.

17. Turning to the proposed houses, the revised scheme would have them sited away from the immediate setting of the churchyard although they would be isolated from the present footprint of the hall. Taking into account that there would be, roughly, a doubling in size of the footprint of the buildings, I accept that there would be a material reduction in the openness of the space. The two storey houses would also be greater in building bulk when compared to the single storey but linear form of the present hall. However, given the architecture form of the new houses, which can reasonably be described to be of a vernacular design, there would be a considerable improvement over the present hall structure. The siting of the higher and bulkier structures away from the southern corner of the appeal site would improve the critical view southwards from about the Lych Gate. The two houses would be seen in the wider context of other residential development in the village around the churchyard and associated open areas.
18. The re-siting of the car park away from the immediate setting of the churchyard would also be a moderate enhancement of the space and the amended layout plan makes provision for the alignment of a footpath to the eastern corner of the site.
19. I have also taken account of the advice of English Heritage who concluded that the proposed development would not materially harm the setting of the listed church or directly impact on key views; that the level of harm to the conservation area is low; and that the proposal would not significantly lessen the sense of openness when compared with the church hall. These are conclusions with which I concur.
20. On balance I find on this issue that the design and setting of the two houses would be a considerable visual improvement to the present form of the hall. This visual enhancement would outweigh the reduction in the openness of this space, and improve rather than harm the setting of St Leonard's Church and churchyard. There would be limited local harm to the part of the conservation area around the appeal site caused by the loss of part of the open area, but looked at in the round, the removal of the present utilitarian hall building and its replacement by dwellings of an appropriate design and siting would be a positive enhancement of the conservation area when seen as a whole.

Planning Balance

21. In terms of the provisions of the development plan, the proposal would result in limited conflict with saved Policy CON16 in relation to the overall loss of part

of the open area, but there is accord with the requirements of saved Policies CSEN3 and CON5, as the setting of the Listed Buildings would not be adversely affected. Overall there would also be accord with saved policy CON7 as there would be an overall enhancement of the Conservation Area. The statutory tests would be met as overall the development proposed would preserve the setting of buildings of architectural or historic interest and be an enhancement both of the character and the appearance of the Watlington Conservation Area and these are matters to which I give considerable weight.

22. In relation to the guidance in the Framework, paragraph 134 is applicable and this deals with proposals where there would be less than substantial harm to the significance of a designated heritage asset, in this case the setting of the Listed Buildings and the character of the Conservation Area. Although I recognise that there is both support and objection from members of the public and community groups over this scheme, it appears to me that securing the long term repair and restoration of a grade II* Listed Building, and the use of the St Leonard's Church itself as a community facility, amounts to a significant public benefit. In summary, I am satisfied that the development proposed meets the social, economic and environmental roles of sustainable development set out in the Framework when this is read as a whole.
23. Further, the implementation of this strategy and the funding of the work through the development is now formalised with the Obligation submitted. I am satisfied that the terms of the Obligation mean that it is necessary to make the development acceptable in planning terms and meets the tests set out in paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations. I will therefore take the Obligation into account.
24. Overall, I conclude that the limited harm that arises with the net loss of part of the site's character as an open area is outweighed by the enhancement of the appearance of the area and the public benefit of the repair and improvement of St Leonard's Church and its use for wider community purposes. I therefore find that the proposal accords with the development plan when read as a whole, and this is not outweighed by any other consideration. I will therefore allow the appeal.

Conditions

25. In terms of conditions the Council recommends 18 which I will consider under the same numbering.
26. In addition to the statutory condition on the timing of the implementation of the development (no.1), the development should be carried out in accordance with the specified approved plans in the interest of clarity and I will therefore impose conditions 1 and 2. No.3 is necessary because the demolition of the church hall will lead to a local visual improvement. Further, details of the external materials (4), ground levels (5) and joinery details are necessary to ensure that the appearance of the development is appropriate for this sensitive site. The landscaping of the site is also reasonable and necessary and I will impose conditions 7, 8 and 9 to ensure that a scheme is agreed and implemented and that existing trees are protected during the construction phase.

27. I am also satisfied that there is sufficient local justification for the removal of general development rights (10) applying to the construction of further extensions, outbuildings hard standings and means of enclosure to ensure that the external appearance of the development proposed makes an enhancement of the appearance of the site and is not weakened by subsequent changes. It is also reasonable and necessary that the development approved has adequate access and parking facilities so I will impose conditions 11, 12, and 13. Further, a restriction on external lighting as per condition no. 15 is reasonable and necessary to ensure that the setting of the church is not adversely affected by the development allowed.
28. In terms of drainage, in order to avoid pollution, details of the disposal of surface water and foul drainage (16) should be submitted and the agreed scheme must be implemented. Further in order to minimise a risk of flooding I will impose conditions 17 and 18 and the buffer area adjacent to the stream should be subject to a management plan (14) in the interests of protecting the habitat. However, I do not consider that there is a justified case to extend this buffer to 10m in width as suggested by the Parish Council.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

David Murray
INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the approved plans and supporting documents except as controlled or modified by conditions of this permission. The plans approved are: 13/443/545/001/P4 13/443/545/003/P6; 13/443/545/004/P4; 13/443/545/005/P5.
- 3) The church hall shall be demolished prior to the commencement of development in respect of the construction of the dwellings.
- 4) Prior to the commencement of the development hereby approved samples of the external facing materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the commencement of development detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- 6) Joinery details to be used in the fenestration of the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.
- 7) Prior to the commencement of the development hereby permitted a scheme for the landscaping of the site, including the planting of live trees and shrubs, the treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 8) A landscaping maintenance schedule and a long term management plan for the undeveloped blue edge land shown on the approved block plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.
- 9) Prior to the commencement of any site works or operations relating to the development hereby permitted, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement should specify that no construction activities shall take place within the identified root protection areas or within the ecological buffer zone shown on the

approved block plan 13/443/545/003/P6. Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

- 10) Notwithstanding the provisions of the Town and Country (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order), no development as specified in Schedule 2, Part 1, Class A - Extensions; Class E - Outbuildings; Class F - Hard standings and Part 2, Class A - Means of Enclosures shall be undertaken without the prior written permission of the Local Planning Authority.
- 11) Prior to the first occupation of the development hereby approved, the parking and turning areas shall be provided in accordance with the approved plan 13/443/545/003/P6 and shall be constructed, laid out, surfaced, drained and completed to be SUDs compliant, and shall be retained unobstructed except for the parking of vehicles associated with the development at all times.
- 12) A Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved CTMP shall be implemented prior to any works being carried out on site, and shall be maintained throughout the course of the development.
- 13) The garage accommodation hereby approved shall be retained as such and shall not be adapted for living purposes without the prior written permission of the Local Planning Authority.
- 14) A habitat management plan for the buffer zone shown adjacent to the stream on the approved plan 13/443/545/003/P6 shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The plan shall include:
 - (i) Description and evaluation of the features to be managed;
 - (ii) Ecological trends and constraints on site that may influence management;
 - (iii) Aims and objectives of management;
 - (iv) Appropriate management options for achieving aims and objectives;
 - (v) Prescriptions for management actions for a 20 year period;
 - (vi) Preparation of a work schedule (including a 5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually);
 - (vii) Personnel responsible for implementation of the plan;
 - (viii) Monitoring and remedial / contingencies measures triggered by monitoring.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.
- 15) External lighting will only be permitted in accordance with a lighting scheme to be approved in writing by the Local Planning Authority. Any

such lighting shall comprise low pressured sodium lamps with hoods and baffles to direct light downwards.

- 16) The development hereby permitted shall not be occupied until surface water and foul drainage works have been carried out in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.
- 17) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (PFA ref. O090, dated August 2015) and the following mitigation measures detailed within the FRA:1. Limiting the surface water run-off generated by the critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding offsite.2. Finished floor levels are set no lower than 100.73m AOD. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
- 18) No ground raising within Flood Zones 3 and 2 is permitted, other than with the express written consent of the local planning authority.

END OF CONDITIONS