
Appeal Decision

Site visit made on 19 December 2017

by Michael Boniface MSc MRTPI

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

Decision date: 4th January 2018

Appeal Ref: APP/P1560/W/17/3180744

Hieland House, Crow Lane, Tendring, CO16 9AW

- 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 D Messenger, EHG Capital Ltd against the decision of Tendring District Council.
 - The application Ref 16/01920/FUL, dated 16 November 2016, was refused by notice dated 4 April 2017.
 - The development proposed is the use of property for weddings and similar functions.
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Decision

1. The appeal is allowed and planning permission is granted for the use of property for weddings and similar functions at Hieland House, Crow Lane, Tendring, CO16 9AW in accordance with the terms of the application, Ref 16/01920/FUL, dated 16 November 2016, subject to the conditions contained in the attached Schedule.

Main Issue

2. The main issue is the effect on the living conditions of neighbouring occupants', with particular regard to Round Cottage.

Reasons

3. The appeal property is a large detached building standing within substantial landscaped grounds located on a rural country lane. Few properties are located close by, the nearest being Round Cottage to the north. Functions are already held at the site under the provisions of the General Permitted Development Order¹, both within the existing building and a large marquee sited within the garden. In addition, planning permission² has recently been granted by the Council for daytime functions and use of the property as a beauty spa.
4. The proposed development involves a change of use to allow weddings or other functions during the day, up to 19.00 Monday – Saturday and up to 18.00 on Sundays; and for up to 14 functions extending up until midnight each year. It is expected that the venue would accommodate up to 60 guests and a small number of staff.
5. A Noise Impact Assessment (October 2016) (NIA) accompanies the application and concludes that the development would not harm neighbours' living conditions subject to a range of mitigation measures, including acoustic fencing

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended)

² Planning Ref. 17/01070/FUL

- adjacent to Round Cottage, automatic door closers and a restriction on amplified music outside of the function room.
6. The proposed function room is located to the south of the building, furthest from Round Cottage. Under normal conditions, the NIA expects that music would be inaudible at the nearest receptors. However, it is noted that the tonal and repetitive character of music might be distinguishable from existing ambient noise. This is particularly so if windows are opened for ventilation during warm weather. Even if the sound of music was perceptible, however, it is still expected to be below the ambient conditions during day and night.
 7. Functions would generally be restricted after 19.00 when local residents might expect a greater degree of peace and quiet and late evening functions would only occur a maximum of 14 times a year. This is consistent with the number of events currently being held at the site. Even on those occasions extending beyond 19.00, functions may not continue until the latest permissible time and the appellant highlights that many corporate events currently finish earlier than this.
 8. I note that there have been a number of noise complaints to the Council regarding loud music but the Council has been unable to substantiate any noise issues. Given the number of properties involved and the number of representations I have received in response to the appeal, I have no reason to doubt that music has been audible on previous occasions. However, this occurred in relation to functions absent of any noise mitigation measures and without time restrictions.
 9. The proposed parking area is located close to Round Cottage and car door slams and engines are likely to be audible to the neighbouring occupants'. The NIA contains no specific noise data in this respect, but these activities are likely to be limited to arrivals and departures associated with events and would again occur relatively infrequently. A vehicular access already exists in this part of the site and so such noises would not be uncharacteristic, albeit that they are likely to become more frequent than at present. The proposed mitigation measures include the provision of acoustic fencing on the boundary with Round Cottage and this would, in my view, be sufficient to reduce noise and disturbance from this source to an acceptable level.
 10. Given the relative infrequency of late night events and the likelihood that daytime activities will involve less noise and disturbance, I do not consider that the limited levels of noise that might be perceptible at nearby properties would materially harm neighbours' living conditions. As such, I find no conflict with Policies QL9, COM22 or ER16 of the Tendring District Local Plan (2007), which generally support leisure uses but seek to protect neighbours' living conditions and avoid disturbance by way of noise, including through the use of mitigation measures where appropriate; or the similar objectives of the National Planning Policy Framework (the Framework).

Other Matters

11. The submitted Highways Statement (June 2016) identifies only a modest increase in annual traffic movements resulting from the proposed development and the site access would be altered so as to improve visibility on exiting the site. Ample parking is also proposed on-site, including an overflow car park if needed. Both the Council and the Local Highway Authority accept that the

increase in traffic would have no material impact on highway safety or capacity and there is no evidence before me that leads me to a different conclusion.

12. The Council concludes that the development would not harm the setting of Round Cottage, which is a Grade II listed building. Given the limited external alterations proposed and the existence of a 1.8m high fence on the boundary, I agree that the significance or special interest of the building would not be harmed.
13. There is no reason to expect that the proposed development should set a precedent for similar changes of use or commercial developments in the countryside. Proposals must be considered on their own merits, as I have done in this case. There is also no reason to expect that suitable drainage is not available or achievable at the site, even in the absence of mains drainage.
14. Although there is no requirement to demonstrate a need for the development in planning terms, I note that both the Council's Regeneration Team and the County Council support the proposal and there would clearly be local economic benefits in bringing people to the area that might use local services and facilities and through the venue's potential use of local suppliers. Any resulting loss of business to Tendring Village Hall is not material to this decision.

Conditions

15. The Council has suggested a number of conditions in the event that planning permission is granted. In addition to the standard time period for commencement of development, I have specified the approved plans, the number of functions and operating hours permissible for the sake of certainty.
16. In order to protect neighbours' living conditions, it is necessary to require automatic closers on all doors serving the function room; details of the proposed acoustic fencing; and to prevent external lighting without the permission of the Council. Firework displays are restricted to a maximum of 4 per year commencing before 11.30pm and amplified music is permissible only within the function room. A Noise Mitigation Strategy is also required to ensure that the impacts on neighbours' are minimised.
17. In the interests of highway safety, it is necessary to secure the reconfiguration of the vehicular access; parking and turning facilities; suitable visibility splays; a bound surface within 6 metres of the highway; suitable dimensions for the parking spaces; and details of the proposed overspill parking area.
18. I have amended the conditions as necessary to improve their precision and ensure compliance with the tests contained within the Framework.

Conclusion

19. The development would not materially harm the living conditions of neighbouring occupants'.
20. In light of the above, and having considered all other matters, the appeal is allowed.

Michael Boniface

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 permitted shall be carried out in accordance with the following approved plans: 1743-01 and 1743-02 A.
- 3) No more than 14 functions per calendar year shall be allowed to continue on past 7pm. These 14 functions shall cease at midnight.
- 4) Other than 14 functions allowed under condition 3, all other functions/events shall operate within the following hours only:
 - Monday – Saturday (8am – 7pm)
 - Sundays (10am – 6pm)
- 5) All doors to the proposed function room shall be fitted with automatic closers.
- 6) Prior to occupation of the development, the proposed access at its centre line shall be provided with a clear to ground visibility splays with dimensions of 2.4 metres by 55 metres to the south and 2.4 metres by 48 metres to the north, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- 7) Prior to the approved use commencing the vehicular parking and turning facilities, as shown on the parking layout plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- 8) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 9) Prior to the approved use commencing the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 6 metres, shall be retained at that width within the site and shall be provided with an appropriate vehicular crossing of the grass verge.
- 10) The areas of hard surfacing for parking within the Root Protection Areas of the retained trees along the northern boundary of the site shall be constructed using 'no dig' construction technology.
- 11) Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.
- 12) Prior to the commencement of development details of the proposed acoustic fencing shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details prior to the approved use commencing and shall be retained thereafter as approved.
- 13) There shall be no amplified music outside of the function room (indicated as 'Wedding Ceremony Room' on the approved plans) at any time.

- 14) No external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.
- 15) Prior to the commencement of development precise details of the proposed overspill car parking area shall be provided, including the siting and number of spaces. The overspill parking area shall then be made available for use prior to the approved use commencing and shall be retained as approved thereafter.
- 16) There shall be no more than 4 firework displays per year and these shall commence prior to 11:30pm only.
- 17) Prior to the commencement of development details of a noise mitigation strategy (outlining informative signage to guests and staff duties during noise sensitive hours) shall be submitted to and approved, in writing, by the Local Planning Authority. The approved strategy shall then be implemented at all times during late evening functions.