



Appeal Decision

Site visit made on 28 November 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 29 January 2018

Appeal Ref: APP/F0114/W/17/3181650

Church Hall, School Lane, Batheaston, Bath BA1 7EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Batheaston Shared Vision Group against Bath & North East Somerset Council.
 - The application Ref 16/04872/FUL is dated 3 October 2016.
 - The development proposed is erection of new single storey Church Hall, activity rooms, kitchen, toilets, stores and associated car park/landscaping and external works following demolition of existing Church Hall.
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Decision

1. The appeal is allowed and planning permission is granted for erection of new single storey Church Hall, activity rooms, kitchen, toilets, stores and associated car park/landscaping and external works following demolition of existing Church Hall at School Lane, Batheaston, Bath BA1 7EP in accordance with the terms of the application, Ref 16/04872/FUL, dated 3 October 2016, subject to the attached schedule of conditions.

Preliminary Matters

2. The appeal is against the Council's failure to determine the application within the prescribed time. The Council advises that had it been in a position to determine the application, it would have approved the proposed development with conditions.
3. According to the appellant, an alternative scheme for a Church Hall on the same site, submitted by a different applicant and already given planning permission¹, should have been considered by the Council at the same time as the current proposal. Those are matters between the appellant and the Council. Nor is it for me to carry out a comparison exercise with an already approved scheme. My role is to consider the appeal proposal before me.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the Batheaston Conservation Area (CA); and,
 - highway safety

¹ Planning ref: 15/05152/FUL

Reasons

Character and appearance of the CA

5. The appeal site is a roughly rectangular parcel of land located on the north side of School Lane. It is currently occupied by a Church Hall and adjacent grassed field area. A functional wood panelled youth club building stands next to the Church Hall to the west. The proposal would replace the existing building with a slightly larger building, according to the Council, and provide car parking spaces on the grassed area. The site lies within the CA and a number of listed buildings are in the vicinity.
6. Strong protection is afforded by statute², and great weight attributed by National Planning Policy Framework (the Framework)³, to the conservation of designated heritage assets, which include conservation areas and listed buildings, along with their settings.
7. This part of the CA is characterised by mature trees, greenery and several attractive listed buildings. A stone wall, which once formed the boundary of an 18 century Vicarage garden and orchard, runs along the side of School Lane. The existing Church Hall, built in the early 1950s, is of limited architectural quality and in a poor state of repair. It can be seen in views from the corner at Northend and from along School Lane and it has a negative impact on the character and appearance of the CA.
8. The proposed replacement building would be a single storey pavilion-style structure with extensive glazing. Its main roof would be hipped and clad in Welsh slate whilst its elevations would be stone, to match the existing boundary wall along School Lane. However, aspects of the design such as the expanse of flat roof and the south elevation, with its row of small high level windows, would appear somewhat utilitarian and are not characteristic of the area.
9. Although the building would be functional rather than architecturally outstanding, it would be relatively modest and sited on land which drops down away from Northend. The use of appropriate materials, which could be secured by condition, would sufficiently mitigate the limited adverse effect on the CA.
10. Whilst the car parking area would occupy part of the adjoining field, it would be enclosed by the existing stone walling and mature vegetation. Given the land levels, views of it would be relatively restricted. Its surfacing could also be controlled by condition. It is understood that revisions to the existing entrance to the site would result in some beneficial reinstatement of parts of the existing boundary wall.
11. The relationship between the listed buildings in the area and the appeal site is sufficiently separate to avoid any harm to the settings of those designated heritage assets which contribute to their significance.
12. Taking into account the above factors, I find that the development would cause some limited harm to the character and appearance of the CA. Therefore, there would be some initial conflict with Policy HE1 of the Council's

² ss 66(1) & 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

³ Paragraph 132

Placemaking Plan (PP)⁴ which, in accord with the Framework and statute, seeks to preserve or enhance conservation area.

13. Although any harm to a conservation area must be accorded considerable importance and weight, as the adverse effect on the character and appearance of the CA would be limited, I consider that the harm caused to its significance would be 'less than substantial' harm, in the terminology of the Framework. In such circumstances, paragraph 134 of the Framework advises that the harm should be weighed against the public benefits of the proposal. Policy HE1 of the PP, in accordance with the Framework, also allows for such a balancing exercise.
14. The Council and the appellant have referred to a range of benefits associated with the proposal and the replacement of the existing dated Church Hall. These include enhancements in terms of providing a more flexible layout and space, with improved community facilities, greater energy efficiency and more effective control of noise emissions from the interior of building. It is submitted that this would enable the upgraded building to be used for a wide range of social and recreational activities and other events. Whilst some concern has been expressed about the loss of the green field to car parking, arguably the provision of additional car parking would of some benefit, although the Council advise that it is not a requirement of such a scheme.
15. Cumulatively, I consider those public benefits to be sufficient to outweigh the less than substantial harm that I have identified to the character and appearance of the CA. Overall therefore, the proposal is in accordance with relevant development plan policies including Policy HE1 of the PP, which seek to safeguard heritage assets. It also complies with relevant sections of the Framework.

Highway safety

16. The proposal would introduce 10 parking on the adjacent field area, whereas it is understood that currently there is only informal parking for 2 cars near the access. The Council advises that its Highways Engineer raised significant concerns about the resulting intensification of use of the access in relation to potential conflicts with vulnerable pedestrian users of School Lane, particularly around the start and finish times of the nearby primary school.
17. There was discussion about the effect of the historic stone wall on achievable visibility splays to the east and west. However, the Council has indicated that it is satisfied that, in combination with an agreed management plan for the car park which could be secured by condition, the access arrangement is acceptable. It is also relevant that it is an existing vehicular access, albeit used to a more limited extent.
18. Overall, I see no clear reason to disagree with the Council's assessment and conclude that the proposal would not have an adverse effect on highway safety. Therefore, the development would be in accordance with Policy ST7 of the PP and relevant parts of the Framework, which seeks to ensure that development does not prejudice highway safety.

⁴ District-wide Strategy and Policies (July 2017)

Other Matters

19. It is apparent that the proposal attracted a considerable level of public interest. A range of issues have been raised by the Parish Council and local residents. Although the vast majority objected to the proposal on various grounds, there were also some letters of support.
20. The proposed parking area was considered unnecessary and visually damaging by many and there was concern about the associated loss of the green field space. I have already dealt with the visual impact of the car park above. With regard to the loss of green space, whilst I appreciate that it may have been used as an additional facility by the nearby school and for other events such as fetes, the Council advises that it is not a designated area on its Policies Map and, therefore, does not enjoy the protection offered by Policy LCR5 of the PP. There has also been some support for that additional parking provision. Therefore, that aspect does not lead me to alter decision.
21. It is suggested that the proposed replacement hall is too small, although the Council advise that it is slightly larger than the existing building. Ultimately, it would be a matter for the controlling interests of the Church Hall and associated green space to decide on a suitable scheme.
22. A range of other issues are considered in Council Officer's committee report including effects relating to parking requirements, noise, trees and landscape, ecology, air quality, drainage, flooding and the living conditions of adjacent occupiers. The Council is satisfied that there would be no significant harmful effects associated with those aspects, subject to the provision of appropriate conditions where necessary. Whilst I have considered those matters I see no reason to take a different view.
23. The appellant has expressed various concerns about the extent of requests for further information by the Council and its conduct in during the planning application process. That is a matter for the main parties.

Conditions

24. The Council has suggested conditions which I have considered, making minor amendments if necessary to ensure compliance with the tests contained in the Planning Practice Guidance. A condition setting a time limit for commencement of the development is required by statute. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty.
25. Conditions dealing with demolition are necessary to protect the living conditions of nearby residents, the safety of site workers and future users of the site. It is appropriate for there to be conditions limiting noise levels, specifying hours of use and times of recycling to protect the living conditions of nearby residents.
26. A condition relating to hard and soft landscaping is appropriate to protect the character and appearance of the area. It is necessary for there to be a condition requiring an appropriate tree protection method statement and plan to safeguard existing trees. Condition relating to car parking and bicycle

parking are appropriate to ensure safe and accessible parking is provided and to promote the use of sustainable transport.

27. It is necessary for there to be a condition requiring a Construction Management Plan to ensure highway safety and protect the living conditions of surrounding occupiers. A condition relating to a management plan for the car park is necessary to protect highway safety. It is appropriate for there to be conditions relating to bats, nesting birds and lighting to safeguard wildlife and the ecology of the area.
28. A condition regarding surface water drainage is necessary to ensure appropriate arrangements can be put in place prior to occupation. Conditions relating to materials are appropriate to preserve the character and appearance of the CA.
29. It is important that conditions 4, 8, 12, 14 and 17 are agreed before any development commences to ensure that appropriate arrangements have been agreed and any adverse effects are avoided.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos FMW 1446SK07; 1046.02; BVH01; BCH02 excluding the Block Plan inset; FMW 1446SK08 Rev B and FMW1446SK09 Rev B.
- 3) No materials arising from the demolition of any existing structures, the construction of new buildings or any material from incidental and landscaping works shall be burnt on the site.
- 4) No demolition of the existing hall shall take place until a scheme to deal with the management and/or safe disposal of asbestos and asbestos containing materials has been submitted to and approved in writing by the local planning authority. The scheme shall include details of, where necessary, an asbestos identification survey by a qualified contractor, measures to be adopted to protect human health and the preferred asbestos disposal route. Development shall take place in accordance with the submitted scheme unless otherwise agreed in writing by the local planning authority.
- 5) Noise from associated plant and/machinery in connection with the development should not exceed -5dB of the identified background levels as detailed in the acoustic report submitted (35dB LA90,5min) to be measured at the closest noise sensitive receptor.

- 6) The noise emissions attributable from within the building shall be limited to a level not exceeding 37dB (LAeq, 1 Hour) during the operational periods to be measured at the closest noise sensitive receptor.
- 7) No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the local planning authority showing details of all trees, hedgerows and other planting to be retained, a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site including details of the surface finish of the car park, and a programme of implementation.
- 8) No ground preparation, demolition or construction activities shall take place until a Detailed Arboricultural Method Statement with scaled Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the local planning authority and details within the approved document implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the local planning authority. The statement should also include specifications for the no-dig construction method and materials of the car park and the control of potentially harmful operations such as the demolition of the existing building, storage, handling and mixing of materials on site, burning, service run locations including surface water drainage and movement of people and machinery.
A signed certificate of compliance shall be provided by the appointed arboriculturalist to the local planning authority on completion and prior to the first occupation of the building.
- 9) The development hereby approved shall not be used outside of the hours of 0800 to 2300 Monday to Saturday and 0800 to 2230 on Sunday with the exception of a maximum of 26 events on Saturdays and Sundays which shall end no later than 0000 other than the morning following New Year's Eve on whichever day that may fall when the hall shall close at no later than 0100 on the following morning. The applicant shall keep a log of each occasion that the development is open until 0000 and that log shall be made available for the Local Authority to inspect upon request.
- 10) The area allocated for the parking of vehicles on the submitted plan shall be provided prior to the hall being first brought into use and thereafter kept clear of obstruction in perpetuity. Two of the designated spaces should be identified and made available for the sole use of disabled visitors.
- 11) Cycle parking shall be provided prior to the building being first brought into use, in accordance with details which have been first submitted to and approved in writing by the local planning authority. The cycle parking shall thereafter remain available for the parking of cycles in perpetuity.
- 12) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. It shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

- 13) Prior to the village hall being first brought into use, details of a management plan for the proposed car park shall be submitted to and approved in writing by the local planning authority. The car park shall operate only in accordance with the approved plan.
- 14) The development hereby permitted shall be carried out only in accordance with the recommendations in section 6 of the approved Bat Detector Survey Report dated May 2016 by Simecology. Demolition works shall not commence until a suitably experienced ecologist (licenced bat worker) has undertaken all necessary ecological pre-commencement checks to include re-inspection of all features of the building identified as having roost potential for bats. All demolition works with potential to affect concealed spaces identified as having bat roost potential, such as dismantling of the roof, shall thereafter proceed only under ecological supervision by a suitably qualified ecologist. Works shall not commence until the appointed ecologist has notified the local planning authority in writing of the outcome of the pre-commencement checks.
- 15) No removal of trees hedges or shrubs shall take place between 1st March and 31st August unless a Survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been first submitted to and approved in writing by the local planning authority. No tree hedge or shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.
- 16) No new external lighting shall be installed without full details of proposed lighting design being first submitted and approved in writing by the local planning authority; details to include lamp specifications, positions, numbers and heights; details of predicted lux levels and light spill, and details of all necessary measures to limit use of lights when not required and to prevent light spill onto nearby vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed in accordance with the approved details and thereafter no lighting shall be installed other than in accordance with the approved details.
- 17) No development shall commence, except demolition and ground investigations, until details of a scheme for the disposal of surface water have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to occupation of the building hereby approved.
- 18) The walls and roof of the building identified to be the main hall hereby approved shall be constructed in natural stone walls and natural welsh slate roof.
- 19) No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out only in accordance with the approved details.
- 20) No construction of the external walls of the development shall commence until:
 1. a sample panel of all external walling materials to be used has been erected on site, and approved in writing by the local planning authority.
 2. Large scale details of all external doors and windows (including roof lights) have been submitted to and approved in writing by the local planning authority.

3. Full details of the entrance treatment, including any proposed treatment of the stone wall, have been submitted to and approved in writing by the local planning authority.

All of the materials approved by this condition shall be retained on site for reference until the development is completed. The development shall be undertaken in accordance with the approved details.

- 21) No external recycling of bottles or other waste products or use of the external refuse facilities shall take place within the site outside the hours of 0800 to 2300 Monday to Friday and 0900 to 2300 on Saturdays, Sundays and Bank Holidays.

END OF SCHEDULE