

Appeal Decision

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2020

Appeal Ref: APP/P1045/W/19/3241930

Darley Hillside Methodist Church, Moor Lane, Darley Dale DE4 2HG

- 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 Simon Heslop against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00657/FUL, dated 5 June 2019, was refused by notice dated 8 October 2019.
 - The development proposed is the proposed alterations and extension and change of use and alteration of vehicular access of former Methodist church to form single dwelling unit.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Simon Heslop against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description in the planning application form and decision notice differ. I have used the description in the application form which accurately describes the proposal.
4. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council have agreed to the appeal proceeding on this basis.

Main Issue

5. The main issue is whether sufficient evidence has been provided to justify the permanent loss of the existing community facility.

Reasons

6. The appeal building is a former Methodist Church which ceased operating in 2017. As a place of worship, the building is considered a community facility. Policy HC15 of the Derbyshire Dales Local Plan (adopted 2017) (LP) advises that development which involves the loss of a community asset or facility will only be supported where it can be demonstrated that: a) there is evidence to demonstrate that the existing use is no longer needed to serve the needs of the community; or b) the existing facility is no longer financially viable or

- commercially viable as demonstrated through a robust and comprehensive marketing exercise with the facility actively marketed at a realistic price for a continuous period of at least 12 months immediately prior to the submission of an application; and c) the use or facility has been offered to the local community for their acquisition/operation at a realistic price.
7. The supporting text for the policy offers clarification to aid the interpretation of Policy HC15. It says, amongst other things, that the loss of important local services and facilities will not be granted planning permission until all possible options have been explored to maintain the existing use. Although the supporting text refers specifically to shops and public houses this is not exclusive and it is clear to me that the supporting text is referring to all local services and facilities. The appellant has referred to case law in respect of this matter and I agree that the supporting text does not form the policy wording itself. Instead it is simply an aid to understanding the policy. Nonetheless it is helpful in this case in understanding the application of the 3 criteria within Policy HC15.
 8. It would seem to me that the insertion of the word 'or' after criterion a) within Policy HC15 means that the proposal does not need to comply with criterion b) if compliance with criterion a) is met. Moreover, criterion b) refers to commercial and financial viability which would not be relevant for a place of worship in any event.
 9. However, the inclusion of the word 'and' after criterion b) does, in my view, mean that the proposal should also comply with criterion c). I recognise that there is some ambiguity within the wording, and it could have been more clearly written. However, in my view, the proposal must either comply with criteria a) and c) or b) and c) within Policy HC15. Criterion c) is relevant either way. This would be a logical interpretation of the language used in the policy whilst having regard to the supporting text as an aid to my interpretation in line with established case law.
 10. I understand that the building was sold to the appellant as it was no longer required by the Methodist Church. Evidence has been provided to demonstrate that there is alternative provision locally for the congregation and the Council do not dispute this. To this end, I am satisfied that the building's use as a Methodist Church is no longer needed to serve the needs of the community.
 11. However, no further evidence is provided to demonstrate that the building's use as a place of worship is not needed by other groups within the community. Moreover, the appellant has not explored alternative community uses that may otherwise be appropriate for the building.
 12. I understand that the appellant purchased the building after a 3-month marketing exercise and there were no other interested parties or interest from other community groups during this time. However, from the information provided as part of the appeal the sales particulars advertised the building as having potential for development. Moreover, I have no information on the valuation process, which marketing methods were used or whether the building was advertised as a community facility. It is not, therefore, possible to reach a firm conclusion that there is no demand for the community facility from the information before me.

13. I therefore conclude that there has not been sufficient evidence provided to justify the permanent loss of the existing community facility. The proposal would therefore conflict with the requirements of Policy HC15 of the LP. This policy is broadly consistent with the requirements of the National Planning Policy Framework (the Framework).

Other Matters

14. I have been referred to another church nearby where the Council have granted consent for its loss as a community facility. Although I do not have full details of the proposal, from the information before me, the evidence provided in that case was submitted on the basis of an assessment against all 3 criteria. Moreover, the applicant had marketed the property with no reserve at an auction and demonstrated, in the opinion of the Council, that this had enabled consideration for other community uses. I have, in any case, reached my own conclusions on the appeal proposal based on the evidence before me.
15. I recognise that no objections were raised to the planning application from third parties. Moreover, the Council did not make findings of harm with respect to other matters including, amongst other things, design, highways and living conditions. I have no reason to disagree with these findings. However, the absence of harm in these respects is a neutral matter weighing neither for nor against the proposal.
16. Given the modest scale of development proposed, the associated benefits would be limited and outweighed by the harm from the permanent loss of a community facility without sufficient justification. I have come to this conclusion having regard to the importance that the government places on boosting the supply of housing and making effective use of buildings.

Conclusion

17. I have taken account of all the other matters raised including the benefits of the proposal. However, none changes the balance of these findings and the harm I have identified. I therefore conclude that the appeal should be dismissed.

Robert Walker

INSPECTOR