



Appeal Decision

Site visit made on 3 February 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2020

Appeal Ref: APP/W1525/W/19/3237207

Land adjacent Sandpit Cottage, Holybread Lane, Little Baddow, Chelmsford CM3 4BP

- 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 Ryan Parsons (Chelmsford Gospel Hall Trust) against the decision of Chelmsford City Council.
 - The application Ref 18/02011/FUL, dated 30 November 2018, was refused by notice dated 15 March 2019.
 - The development proposed is proposed gospel hall and ancillary store (Use Class D1) with associated access, car parking (18 spaces) and new landscaping. Restoration and retention of the landscape frontage and rear woodland.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's appeal statement and reasons for refusal make reference to a number of policies within the emerging Chelmsford Local Plan (CLP). The emerging CLP has been found sound subject to modifications but at the time of determining this appeal remains unadopted. As such although the emerging plan is at an advanced stage, it carries no statutory force and I therefore afford the emerging plan limited weight. At this time the development plan still consists of the Core Strategy and Development Control Policies Development Plan Document 2008 (DPD). This is the basis upon which I have determined this appeal.

Main Issues

3. The main issues are the effect of the development on i) the character and appearance of the area; ii) living conditions of occupiers of the neighbouring property of Honeymead by reason of noise and disturbance; and iii) the conservation of protected species.

Reasons

Character and appearance

4. The appeal site is located on the edge of but outside the defined settlement boundary of Little Baddow between the dwellings of Honeymead and Sandpit Cottage. There are a number of existing structures and areas of hardstanding within the site that I am advised formed part of a former mushroom farm. This

- use appears to have ceased a significant time ago and as such, the buildings have fallen into a poor state of repair. Levels vary across the site although the existing buildings are set at a generally lower level to the road and access from the south. The site is partially overgrown with some mature trees and a hedge forming the boundary to Holybread Lane.
5. The appeal proposal is to redevelop the site to provide a gospel hall, ancillary storage building and associated landscaping and car parking. The proposed hall and storage structure would be sited in broadly commensurate locations to existing buildings within the site.
 6. My attention has been drawn to a previous appeal decision at the site (APP/W1525/W/17/3172544). Similar to the previous Inspector I observed that the visual impact of the existing buildings is modest owing to their position, coupled with a change of levels relative to the road and vegetative cover. Noting this, although the site occupies a gap between dwellings and that the eastern boundary forms part of the settlement boundary of Little Baddow, there is a marked change in character beyond the western boundary of Honeymead. As such, I concur with the previous Inspector that the site appears more closely related with the countryside rather than existing development within Little Baddow.
 7. Owing to their varying degrees of dereliction, I accept that the existing structures do not contribute positively to the character of the countryside. However, having visited the site I consider that they have become partially assimilated into their setting. I acknowledge that the appellant has sought to reduce the visual impact of the proposed structures, through their design and siting, to respect existing development and improve site condition through removal of existing structures and hardstanding. However, the objectives of Policies CP5 and DC2 of the DPD seek to, amongst other things, protect the countryside and its intrinsic character and beauty and to restrict forms of development. On balance, I consider that the proposed alterations in built form, associated enclosures and activity, including the parking of a number of cars, would appreciably and substantially urbanise and diminish the existing rural character of the site. As such I find that the appeal proposal would be at odds with the provisions of these Policies.
 8. At the time of my visit relatively clear views of the existing buildings at the site were afforded, particularly from the neighbouring, publicly accessible woodland. I acknowledge the appellant's intention to maintain existing planting and provide landscape improvements within the site. However, I am not persuaded that this or the suggested restrictions to the use and further development within the site would adequately mitigate the identified impacts of the development in the short to medium term.
 9. For the collective reasons outlined above, I conclude that the proposed development would have a significantly harmful impact on the intrinsic character and appearance of the countryside. Consequently, it would not accord with the design and landscape aims of Policies CP5 and DC2 of the DPD.
 10. The reason for refusal also makes reference to Policies CF1 and CO4 of the emerging CLP. I acknowledge there is some debate within the submissions as to whether the proposal constitutes a community facility, whether there is sufficient, identified need and as such whether the appeal is compliant with these emerging Policies and paragraph 92 of the Framework. Amongst other

things Policies CF1 and CO4 respectively require that development is compatible with its surroundings, have no unacceptable impact on the character and amenities of the area and upon the intrinsic character of the countryside. Even if the emerging plan was adopted, as I have found harm for these reasons, I do not consider this alters or outweighs my conclusions with regard to adopted development plan policy above.

Living conditions

11. The plans with the planning application proposed to utilise existing areas of hardstanding within the site to provide car parking, including that running adjacent to the boundary with the residential property of Honeymead. An amended plan has been submitted in support of this appeal that indicates a layout with the removal of parking spaces adjacent to Honeymead with additional bays provided to the south-east of the proposed hall building.
12. Whilst I acknowledge that a degree of separation would be maintained with the neighbouring property in either arrangement, I consider that owing to the position and size of the car parking areas the proposal would result in a significant number of vehicular movements that would be appreciable from the neighbouring property of Honeymead. Given this, it would be difficult for occupiers of this property to avoid noise and disturbance arising, with congregation times indicated within the early hours of the morning on Sundays and Bank Holidays. The parking and turning areas would also result in additional noise and disturbance including from headlights, manoeuvring vehicles and slamming doors from people entering and leaving vehicles. Given this, I find that regular disturbance would most likely result from the proposal. I acknowledge comments of the appellant with regard to the opening hours being the upper and lower limits and that the hall would only be utilised for 6 hours per week, although this does not outweigh concern with regard to potential times of likely disturbance. Furthermore, there is nothing to stop users from being there more frequently or for a much greater amount of time and I am not satisfied that such an arrangement could be adequately controlled by way of condition, owing to concerns regarding precision and enforceability.
13. Although the parking areas would predominantly utilise existing hardstanding, I consider the introduction of parking and associated movements would significantly increase the likelihood of disturbance when compared to the existing situation. Furthermore, although the appellant compares the potential impact with the previous use as a mushroom farm, having regard to the evidence before me it is unlikely that such a use would recommence at the site. I am not persuaded that likely disturbance would be adequately mitigated by suggested bunds or planting or indeed through the suggested amendment in parking layout. Therefore, I am not satisfied that living conditions of the occupiers of Honeymead would be adequately safeguarded.
14. Other examples have been brought to my attention in relation to gospel halls and their relationship to neighbouring properties including some within the Chelmsford City Council area. However, I do not have the full circumstances of those permissions before me and am not persuaded they are the same in all respects and in any event, each case must be assessed on its individual planning merits. Having carefully considered the evidence that has been submitted, I find that it does not justify allowing a proposal that would not

adequately safeguard the living conditions of occupiers of neighbouring properties.

15. For the above reasons, I conclude that the proposal would not accord with Policy DC4 of the DPD which seeks, amongst other things, that development should safeguard the amenities of the occupiers of nearby properties by ensuring that development would not result in excessive noise, activity or vehicle movements.
16. The relevant reason for refusal also makes reference to Policy PA1 of the emerging CLP, that amongst other things, also seeks development that is compatible with neighbouring uses including in terms of noise, unless appropriate mitigation can be put in place. Even if the emerging plan was adopted, for the reasons given above I find the proposal would also be at odds with the provisions of this emerging policy.

Protected Species

17. To overcome ecological concerns raised during application stage, the appeal is accompanied by a preliminary ecological assessment (PEA) undertaken in July 2019. The PEA concludes that the site is of moderate or potentially high ecological value and recommends that further up-to-date surveys be carried out for great crested newts, reptiles, bats, dormice and badgers.
18. Pursuant to this, a preliminary bat roost assessment, dated September 2019 was undertaken and submitted in support of this appeal. This document indicates that buildings one and two provide negligible roost suitability for bats although the site provides moderate foraging opportunities. The report concludes that subject to mitigation there are no significant ecological constraints that would adversely affect the proposed development of the site.
19. I have no reason to disagree with the parties, with respect to bats, that the further survey work provided is satisfactory subject to suitable mitigation being secured. However, the PEA clearly states that further survey work should be undertaken to establish the presence or absence of other species within the site, and from the detail before me, no further up-to-date assessments have been undertaken with regard to great crested newts, reptiles, dormice and badgers.
20. Circular 06/2005 (the Circular) states that it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before planning permission is granted. This is a material consideration and must be addressed in making the decision. As potential harm cannot be ruled out in relation to this issue, then all such surveys should be undertaken before any planning permissions are granted, as made clear in the circular.
21. Having regard to the above, I consider that there is reasonable likelihood of protected species being present within the site. In the absence of further up-to-date survey work being undertaken, as identified by the appellant's own ecologist, I cannot be satisfied that the proposal would not have an adverse effect on the above species.
22. Whilst I acknowledge the appellants comments with regard to survey work being required on part of the appellants land outside of the red line, I consider this at odds with the content of their PEA and do not find this a persuasive

argument. As such, although the appellant argues that the existing surveys are sufficient to understand the impact of the development on biodiversity interests, I am not persuaded that this is the case.

23. In the absence of the recommended surveys, it is not known whether these protected species are present and, if they are, whether mitigation measures would be appropriate. In the light of the strict protection afforded to these species and that additional surveys have not been carried out, I am not satisfied that harm would be avoided. In line with the advice in the Circular, it would be inappropriate to seek to overcome this matter by means of the imposition of a condition, including the requirement for further survey work.
24. For the reasons outlined above, I conclude that the proposal would not accord with the provisions of Policy DC13 of the DPD that seeks to, amongst other things, maintain and enhance biodiversity interests and when determining planning applications affording appropriate weight to protected species. It would also be at odds with the advice within the Framework including that within chapter 15, including the provisions of paragraph 175.
25. The reason for refusal also makes reference to Policy NE1 of the emerging CLP, that amongst other things, seeks that all development proposals should conserve protected species and avoid negative impacts on biodiversity. Even if the emerging plan was adopted, for the reasons given above I also find the proposal would be at odds with the provisions of this emerging policy.

Other Matters

26. I acknowledge comments with regard to the social benefits of the scheme, contention of need and lack of other suitable sites for such a community facility within Little Baddow. Although I note this and the suggested suitability of the location of the site owing to its position adjacent to the settlement boundary, I do not consider that these matters outweigh the harm I have already identified.
27. There is some debate with regard to the previous use of the buildings and whether the site is previously developed land for the purposes of the Framework. However, its prior use, as a mushroom farm, falls within the definition of agriculture and to this end, the presence of these former agricultural buildings does not result in a presumption in favour of the redevelopment of the site.
28. I am not persuaded by the appellants contention that the proposal would comply with Policy DC11 of the DPD because it fails criterion i) that requires any replacement building to be in the same use. Similarly, I am not satisfied that the proposal would meet the requirements of Policy DC38 as this also requires that development has no unacceptable impact upon character and amenities of the area.
29. Although the proposal may retain protected trees and woodland and utilise recycled materials from another site, I do not find that these matters outweigh the harm I have already identified.
30. I acknowledge reference to a previous iteration of the Framework and to the Community Infrastructure Levy within the Council decision notice, although I do not find this determinative to my consideration of the appeal and I have made my decision against the current legislative context, as required under

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended).

31. The appellants have raised concern with the manner in which the Parish Council has considered the proposal. This is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.
32. I note the supportive comments received during the planning application that include reference to lack of issues at other sites, maintenance of open areas within the site and potential for other uses to result in more detriment than the appeal proposal. However, I have considered the appeal development on its individual planning merits and neither this nor any of the other matters raised alter or outweigh my conclusions on the main issues.

Conclusion

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

Robert Lankshear

INSPECTOR