



Appeal Decision

Site visit made on 18 May 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/X1545/W/19/3243546

Land Opposite St Nicholas Village Hall, Witham Road, Tolleshunt Major, Essex CM9 8LN

- 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 St Nicholas Parochial Parish Council against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/00490, dated 23 April 2019, was refused by notice dated 11 July 2019.
 - The development proposed is the change of use of land to car park for use of St Nicholas Village Hall.
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This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued earlier on 26 May 2020.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A letter of objection was received, dated 27 March 2020 and postmarked 30 March 2020. The letter was not opened and added to the file until 12 May 2020 due to the effects of the Covid-19 pandemic. The appellant has had the opportunity to comment on the letter.

Main Issues

3. The main issues are the effect of the proposal on: -
 - the character and appearance of the site and the surrounding area; and: -
 - the living conditions of neighbours with particular reference to noise, odour and general disturbance.

Reasons

Character and appearance

4. The appeal site lies at the junction of Beckingham Street with Witham Road and Tolleshunt D'Arcy Road, close to the edge of the village. It is currently an open area of green space containing trees and scrub planting. It is bounded by a mature, low hedge. The roads around the site are predominantly fronted by

- hedges, with some brick walls and fences. This gives the area a feeling of verdancy, establishing a rural street scene. The site is prominent in views along Tolleshunt D'Arcy Road when entering the village and affords a verdancy around the junction. The hedge and the planting within the site are positive features that contribute to the character and appearance of the street scene.
5. The proposal would remove a significant length of hedge facing St Nicholas Village Hall and the Old Vicarage and the planting within the site, to allow for surfacing with gravel to provide parking for the use of the village hall. The hedge would, in part, be replaced by a timber post and rail fence, reflecting the design of other similar fences in the wider area. At the time of my site visit the site was somewhat overgrown, and the proposal would remove the informal planting, giving the site a more regulated appearance
 6. When in use, the parked cars would be noticeable above the hedge. This, and the removal of the hedge and the planting within the site would reduce the rural feel of the area and result in an incongruous urbanisation of the site and the area around the junction. This incongruity would be of such a degree as to constitute significant harm to the character and appearance of the area.
 7. The appeal site lies close to three Grade II Listed Buildings (LBs). As such I have a statutory duty to pay special attention to the desirability of preserving the buildings or their settings. In addition, Paragraph 193 of the revised Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
 8. The proposal would not affect the structure of the LBs whilst views of the proposal site encompassing them would be very limited. This leads me to the conclusion that the development would preserve the setting of the LBs. I note that this accords with the opinion of the Council.
 9. I therefore conclude that the proposal would result in harm to the character and appearance of the surrounding area and would therefore be contrary to Policy D1 of the Maldon District Approved Local Development Plan 2014-2029 - July 2017- (the Local Plan) which, amongst other things, requires development to respect and enhance the character and local context and make a positive contribution in terms of landscape and townscape setting. Similarly the proposal would be contrary to the aims of those parts of the National Planning Policy Framework -2019- (the Framework) which seek to achieve well-designed places that are sympathetic to local character, including the surrounding built environment and landscape setting, and establish or maintain a strong sense of place.

Living conditions of neighbours

10. Two residential properties lie adjacent to the site, called Gateways and Toucan Rest. Gateways has openings in its facade facing towards the site. At the time of my site visit traffic flows were low, however this may have been affected by the restrictions in travel imposed during the Covid-19 lockdown. However, in the absence of evidence to the contrary, and given the rural location, it is likely that the roads would only carry low flows and be relatively quiet during the night.

11. The appellant has commissioned a Noise Impact Assessment, which concluded that noise disturbance to the two adjacent dwellings from vehicles, including car doors, would be no greater than that experienced from passing traffic or vehicles parking on street.
12. Whilst it is asserted that, at present, the main usage of the hall is during the day, this may change over time and evening usage may increase, particularly if the facilities are augmented by the provision of the car park. Given the hours of operation of the hall it is likely that persons attending events and functions held there would return to their vehicles late at night. This would be likely to generate disturbance from car doors opening and closing, engines turning over, starting, idling and revving during manoeuvring. Additionally, it is likely that visitors to the hall would return to their vehicles in groups and congregate around their vehicles to talk prior to leaving, and this would result in disturbance to the occupiers of nearby dwellings late at night. The pattern of noise would be different to that of passing vehicles, and likely to produce sudden, unexpected, sharp noises which, given the late hour at which they could occur and the probable low levels of background noise, would be likely to be noticeable and disturbing.
13. The appellant has also assessed air quality impacts. The exhausts from vehicles will generate fumes. Whilst the additional air pollution would not reach the threshold for formal assessment, the odours could spread to neighbouring properties.
14. I accept that the prevailing wind is from the south-west and would be likely to blow the fumes away from the dwellings adjacent to the site. Nevertheless, under other conditions, such as still air or with the wind coming from other directions, odours may spread into adjacent gardens. However, the boundary treatments, in the form of hedges and fences, though permeable to gases, would somewhat restrict the spread of such odours and so I do not consider that the degree to which odour will be experienced within the neighbouring properties would be so great as to constitute harm.
15. Whilst currently vehicles are parking on-street in the vicinity of the hall, these are likely to be in more dispersed locations, dissipating and reducing the potential for noise and general disturbance. In any case, the existing harm does not justify the imposition of the harm identified above on specific residents.
16. I note that the appellant seeks to impose a standard set of conditions of rental upon users of the hall. However, this is a voluntary code of conduct and there is no evidence before me to demonstrate that such restrictions would be enforceable and so I give this matter limited weight.
17. I therefore conclude that, whilst not resulting in unacceptable harm to the living conditions of neighbours due to odour, the proposal would have an unacceptable effect on the living conditions of neighbours with particular reference to noise and general disturbance. This would be contrary to Policies D1 and D2 of the Local Plan in as much as these require that development must, amongst other things, make a positive contribution in terms of protecting the amenity of surrounding areas, taking into account noise, and minimise all forms of possible pollution including noise. Similarly, the proposal would be contrary to the aims of those parts of the Framework which seek to create

places that promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

18. The hall currently has limited parking provision and the proposal would provide support for this community facility. The proposed parking would be situated closer to the hall than the car park for the nearby recreation ground, which was originally identified within the planning application for alterations and extensions to the hall¹ (the 2015 permission) for the provision of parking. Concerns have been raised by local residents that the use of on-street parking provision in the vicinity or walking to the hall is unsafe, particularly in view of the levels of usage of the hall by children.
19. However, I have little substantive evidence before me to demonstrate that the roads in the vicinity are dangerous for pedestrians, notwithstanding the lack of street lighting and overall continuous footway provision. The site lies within a 30MPH speed limit and, at the time of my site visit, speeds were generally low, probably being constrained by the road geometry and the active frontages of the village.
20. The car park identified within the 2015 permission is not under the appellant's control and they are unable to complete the development. There is, however, limited provision within the site which would allow for parking by those with a disability.
21. It is suggested that use as a car park would make more effective use of the site. Whilst the proposal would provide an active use, the land, even in its current state, fulfils an environmental function and there is a balance between the benefits of the proposed use and those of its role as green space.
22. Taken together the above matters do not outweigh the harm that I have identified to the character and appearance of the area or the living conditions of neighbours.

Conclusion

23. For the reasons given above, and having taken into account all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR

¹ Council Ref 15/01321/FUL