



Appeal Decision

Site visit made on 16 February 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2022

Appeal Ref: APP/D3505/W/21/3277344

Former Fleetwood Caravans Ltd, Hall Street, Long Melford C10 9JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Nicholas King Homes against the decision of Babergh District Council.
 - The application Ref DC/20/04585, dated 15 October 2020, was refused by notice dated 15 January 2021.
 - The application sought planning permission for the erection of 44 dwellings (including 13 sheltered units) with associated parking, access, landscape, open space, drainage and infrastructure without complying with conditions attached to planning permission Ref B/15/01043/FUL, dated 23 March 2016.
 - The conditions in dispute are Nos 2 and 25 which state that:
Condition 2 - The development hereby permitted shall be carried out in accordance with the following approved documents or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this consent; or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non material amendment following an application in that regard (followed by a list of drawings and documents not re-provided here for brevity).
Condition 25 - Within four months of first occupation of the final dwelling, the hard landscape works shall all have been completed and laid out as specified on drawing number NC15161-P201 P3 received 18th December 2015, or on any other subsequently approved drawing submitted to and approved in writing with the Local Planning Authority.
 - The reasons given for the conditions are:
Condition 2 - For the avoidance of doubt and in the interests of proper planning of the development.
Condition 25 - To ensure that there is a well laid out landscaping scheme in the interests of visual amenity and the character and appearance of the area, and to safeguard the character and appearance of the Long Melford Conservation Area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original planning permission was granted subject to control of landscaping by a landscaping masterplan as listed under condition 2, and by condition 25 to ensure that the works were carried out as specified. There have been various non-material amendments and discharges of other conditions as part of

building out the development, which is now complete and occupied. However, none of these are relevant to the works the subject of this appeal.

3. Because the appeal is against refusal of a s73 application relating to the original consent, the appeal site includes all of the now completed development at Orchard Brook. However, in my Decision when I refer to 'the appeal site' it is in reference solely to the area of tarmac under discussion and, where I need to refer to the wider scheme and site, I refer to it as 'Orchard Brook' or similar. This is for ease of reference.

Main Issues

4. The main issues are:

- the effect of the revised landscaping treatment on the character and appearance of the area, in particular whether or not it would preserve or enhance the character or appearance of the Long Melford Conservation Area;
- the effect of the revised landscaping treatment on the special interest and heritage significance of nearby listed buildings, specifically the Cock and Bell Hotel and the Co-operative Store and Foundry House both on Hall Street; and,
- the effect of the revised landscaping treatment on highway safety.

Reasons

Character and appearance

5. As it stands on the appeal site at present, the initial part of the access road, where the footway crosses it, is surfaced with newly laid tarmac with cobbled areas to each side, as required by the approved landscaping plan. Then the road reverts to old tarmac, in relatively poor condition and with several potholes, running up to the Old Foundry Building, and to the access road built as part of the Orchard Brook development. It is slightly unclear from the appeal documentation, but I believe it is proposed to retain this existing, old tarmac. Alternatively, it may be possible that new tarmac would be laid. In any event, I could condition this, if I deemed it necessary to make the development acceptable. In either case, this contrasts to the original proposal, which was to lay permeable tumbled concrete blocks on the appeal site. These have been used in many other places in the Orchard Brook development, which helpfully provides confirmation of what their appearance would be.
6. Hall Street, Orchard Brook including the appeal site, and the surrounding area, are all in the Long Melford Conservation Area, which stretches much further in all directions. Hall Street is the main street running through the centre of Long Melford and it is an attractive and successful street. It has an eclectic character, with retail, commercial, residential, and leisure uses along its length. There is a variety of architectural styles, although heavily weighted towards older, traditional buildings. The street layout is also varied, with a mix of buildings located directly on the street, side roads, culs-de-sac, and industrial and/or retail yards. Surfacing materials on access roads are similarly varied, including tarmac, paving, grass, and stone surfaces. This variety of architectural style, street layout and materials is an integral part of the established character and appearance of the Conservation Area.

7. Access to Orchard Brook is from Hall Street, via a road that runs between two grade II Listed buildings - the Cock and Bell Hotel and the Co-operative Store and Foundry House. The road provides vehicular and pedestrian access to Orchard Brook, and to the residential and business units in the Old Foundry Building. It also provides access to the car park of the Cock and Bell, and side and rear and service access to both the Cock and Bell and the Co-op store and Foundry House. The road is immediately bordered by the two listed buildings and the front entrance of the Old Foundry Building.
8. Whilst tarmac is used for surfacing of some access roads in this part of the Conservation Area, its appropriateness is context specific. Here, the access road is flanked on both sides by listed buildings, which provide the context for any surfacing material between them. In this instance, the concrete blocks as originally approved would be individually laid, providing texture and a high quality landscaping detail, as can be seen from those already laid at various points along other roads within the Orchard Brook development, creating an identifiable sense of place. Tarmac, either as existing or newly laid, is a poor substitute, lacking texture and depth.
9. I do not see the use of concrete blocks as being incongruous with the treatment of the bell mouth element of the junction with Hall Road. There is a clear distinction between the entrance element of the access road and where it moves away towards the development behind, and there would be a benefit in the use of a different material signifying this. In fact, and importantly, the currently approved material of concrete blocks would provide a clear distinction between Hall Street and the Orchard Brook development. They have already been used in the roads in the development and aid legibility of the completed scheme.
10. In coming to a view on this, I am mindful of the National Design Guide, which confirms that well-designed new development responds positively to the features of the site itself, the surrounding context beyond the site boundary, and is shaped by an understanding of its context. It should enhance positive qualities and improve negative ones. Through the use of a poorer quality material and the lack of legibility of the Orchard Brook development, the use of tarmac for the appeal site does not respond positively to local distinctiveness and character and would material detract from and would therefore harm the character and appearance of the area, including the Long Melford Conservation Area. The proposal fails to comply with Policy CN08 of The Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of New Babergh Local Plan), dated February 2014 (the LP) which, amongst other criteria, seeks to conserve or enhance the character and appearance of conservation areas. It also fails to comply with Chapter 12 of the National Planning Policy Framework (the Framework) which confirms that high quality beautiful buildings and places are fundamental to what the planning and development process should achieve. The proposal does not represent good design.

Listed buildings

11. The Cock and Bell and the Co-op store and Foundry House buildings derive most of their heritage significance from their innate architectural quality and, in the case of the Cock and Bell, it's historic and maintained use. The elements of setting that contribute to their special interest and historic significance include

not only their elevations facing onto Hall Street, but also the side elevations which are also experienced from Hall Street.

12. As noted above, the buildings flank either side of the appeal site. The appeal site is an integral part of that intimate visual relationship and thus forms part of their setting. The appeal site also has a functional relationship to both buildings, because it is a shared access road for servicing and side access to both buildings, and to part of the access road for the car park of the Cock and Bell. It is common ground that the road affects the setting and the significance of both listed buildings. I agree.
13. I recognise that tarmac is the existing material for the road where it abuts the secondary and servicing elevations and provides access points to the listed buildings. It is also the material used for the remainder of the access to the pub's car park, which would remain in tarmac because it is not part of the appeal site. However, the concrete blocks would be a higher quality material and would provide not only the wider benefits to the character and appearance of the area as set out above, but would also provide a more sensitive setting for the listed buildings, improving the way in which they are experienced. Tarmac is a poor substitute for the concrete blocks and it does not reveal or engender any sense of identity for the setting of the listed buildings. There would be a benefit to the setting of the listed buildings, as well as to the wider character and appearance of the area as set out above, in creating a clear distinction between the entrance element of the street and where it moves away towards the development behind, and in the use of a different material signifying this.
14. It has been alleged by the appellant that removing the existing tarmac and relaying with the proposed concrete blocks might damage the listed buildings. However, no detailed evidence has been provided of why this would occur necessarily. It has not been demonstrated that there would be insurmountable technical restrictions that could not be overcome and I see no reason why a technical solution to this could not be found.
15. Consequently, the proposal would harm the setting of both listed buildings and it therefore fails to comply with Policy CN06 of the LP which, amongst other criteria, seeks to protect the setting of listed buildings.

Highway safety

16. The concrete paving surface solution has the appearance of a shared surface on a road, and ties in the appeal site to the similar treatment along parts of the roads in the Orchard Brook development. However, this would have negligible influence on road user behaviour in the context of the road layout. This is because the entrance between the two listed buildings, where the appeal site lies, is narrow. The presence of the listed buildings and the Foundry Villa building in front, particularly given that all three buildings lie directly on the road with no intervening defensible space, naturally invite slow and careful driving. They also provide a clear existing indication that the space is a shared surface, including both pedestrian, cycle and vehicular traffic.
17. In addition, the appeal site is set behind the bell mouth junction to Hall Street. The bell mouth element has been built out in accordance with the originally approved drawings, including constructing a curved footway, cobbled areas,

and tactile paving. These measures combined create a safe and effective point for pedestrians to cross the entrance and are not affected by the proposal.

18. It is therefore likely that the safety of all highways users would not be materially worsened by the proposal. I am satisfied that the proposal would not result in unacceptable harm to highway safety. The proposal therefore accords with paragraph 110 of the Framework which, amongst other criteria, requires that development achieves safe and suitable access.

Other Matters

19. The approved concrete blocks are described as 'permeable'. Tarmac is an impermeable material. However, this is the existing situation. No substantiated evidence has been submitted to demonstrate that the existing situation has resulted in drainage issues or in damage to the adjacent listed buildings. I do not, therefore, find harm in this regard.
20. A number of neighbour objections, including from Long Melford Parish Council, have been submitted. In addition to the factors addressed elsewhere in my Decision, they raised concerns with the following: the advertising/property purchase material stipulated that the concrete block surface would be provided; the concrete block surface would be harder wearing and cheaper to maintain than tarmac, reducing ongoing maintenance costs; and, the appellant has misidentified some of the examples provided of existing tarmac surfaces in the area.
21. The marketing material related to purchase of the properties is a private matter and not related to planning. Ongoing maintenance costs for a private road are also a private matter between the developer and the residents. I have undertaken my own research, including an extensive site visit, of the character and appearance of the various entrances in the area and this has informed my Decision, in addition to the material submitted by both the appellant and the Council.

Planning Balance and Conclusion

22. I assess the level of harm to the Long Melford Conservation Area that I have identified to be at the lower end of less than substantial, as defined by the Framework. The proposal would have no public benefits because a lower quality road surface would be provided with the only benefit, if any, being reduced costs to the developer. Although there would be some disruption during construction, if the concrete blocks are required, the area of re-surfacing required is fairly small, and the time required would correspondingly be relatively short. I do not foresee any significant or out of the ordinary disruption during construction and the avoidance of this is not a public benefit. The proposal therefore fails to comply with paragraph 202 of the Framework.
23. The proposal would harm the character and appearance of the area, including to the Long Melford Conservation Area. I have also found harm to the special interest and heritage significance of the Cock and Bell Hotel and the Co-operative Store and Foundry House listed buildings in terms of how the buildings are experienced in their setting. Although there would be no material harm to highway safety, this only weighs neutrally in the planning balance. I therefore conclude that the appeal be dismissed.

24. No information has been provided regarding any potential Deed of Variation to any s106 Planning Obligation or Unilateral Undertaking that may have been associated with the original permission. Had the proposal been acceptable in all other regards, I would have required further information on the status of this matter.

O S Woodward
INSPECTOR