
Appeal Decision

Site visit made on 9 March 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Appeal Ref: APP/X1545/W/21/3279176

Highfields, Maldon Road, Bradwell-on-Sea, Southminster, CM0 7HZ

- 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 Highfield Events Ltd against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/20/01211 dated 26 October 2020, was refused by notice dated 18 January 2021.
 - The development proposed is use of land for weddings and similar functions for a maximum of 14 events per year between 1st March and 30th September including a temporary marquee.
-

Decision

1. The appeal is allowed and planning permission is granted for the use of land for weddings and similar functions for a maximum of 14 events per year between 1st March and 30th September including a temporary marquee at Highfields, Maldon Road, Bradwell-on-Sea, Southminster, CM0 7HZ in accordance with the terms of the application, Ref FUL/MAL/20/01211, dated 26 October 2020, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Highfield Events Ltd against Maldon District Council. This application is the subject of a separate Decision.

Preliminary matter

3. I should note that, accompanying the application for costs referred to above were documents that make reference to another planning application that sought the variation of a number of conditions on the temporary planning permission granted in 2020, referred to in paragraph 6 below. It appears that this application (reference 21/00589/FUL) resulted in a further temporary permission for this development that expires on 31 January 2025. However, I have been given little other information about this application, and I have determined this appeal entirely on the documents that were submitted with it.

Main Issue

4. The main issue in this case is whether a permanent permission should be given, having regard to the fact that no events were held during the period of a

2 year temporary permission to demonstrate that no harmful effects would occur.

Reasons

The site and surroundings

5. The application site lies to the north of Maldon Road, at the end of a long straight driveway leading to Highfield, a large three storey house. The surrounding farm land to either side of the house and driveway is in the appellant's ownership. The eastern side of the driveway is laid to lawn while the rear garden is entirely encircled with mature trees and hedgerow. To the north, beyond the arable field, the land drops down to the salt marsh and River Blackwater. The garden thereby offers outstanding views along the river. The property is located some distance from any neighbouring dwelling, with Bradwell Wick Farm and Hen House Farm situated approximately 500m to the south east, on the opposite side of Maldon Road. A public footpath runs along the seawall to the north. There are no other public viewpoints in the locality.

Background

6. Planning permission was granted for the identical development in May 2020, under reference FUL/MAL/20/00290 subject to 20 conditions of which the most important, as far as this appeal is concerned, is that it was a temporary permission granted for 2 years, due to expire in May 2022. The appellant (as applicant) did not consider a 2-year consent to be sufficient and therefore the appeal application was submitted seeking a permanent permission. The application also provided details seeking to address some of the conditions imposed previously.
7. Preceding the 2020 application, a private event was held in 2019, following which the appellant examined whether the use of the garden for wedding and other functions could be undertaken on a commercial basis. Two further trial weddings were held during summer 2019, which the appellant reports proved to be extremely successful without any issues apparently being raised. The appellant wishes to hold a limited number of events between 1 March and 30 September in any year. These would probably be for weddings, but other events such as a birthday or corporate activity could also be held. However, because the proprietors of the business live in the neighbouring house, they do not wish to be subjected to noise and disturbance themselves on a frequent or regular basis. This proposal is therefore to hold a maximum of 14 non-family events per year. The functions would be held within a marquee placed within the enclosed garden and would operate no later than midnight on each occasion. Music would be turned off at 23:30 hours to ensure any event terminates by midnight.
8. The officer's report notes that the application form states the change of use has already begun and therefore this application is partially retrospective in nature. That does not appear to me to be entirely correct. It is true that wedding events have been held on 3 separate occasions, but they were all before the time limited permission was granted, and were without planning permission. From the information before me, it appears that there has been no occasion since that grant when an event has taken place. The officer's report also assesses the proposal as being for a permanent permission, and the refusal

reason also states that "It is not considered appropriate to grant a permanent consent...".

9. Quite clearly the appellant would have been very satisfied with a permission without a time limit on its continuation. It is true that the application form does not refer to a temporary permission. However, the appellant's appeal statement refers to a possible 5 year period, and it would have been open to the council to include a condition on a permission inserting some limit on its duration. It would appear that the council did not explore that possibility during the consideration of the application. It would be apparent to anyone that Covid-19 during the life of the permission would have made a great impact on the possibility of proceeding with the business, both due to lock-downs and uncertainty about when conditions permitting social gatherings might become possible.

Development plan policies

10. Policy S8 of the Local Development Plan, adopted in July 2017, is referred to in the officer's report but it is not part of the development plan that has been copied to me. I therefore rely on the quotation in the officer's report. Policy S8 states that *"the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for either:"* (there follows 13 criteria). Of these criteria it seems to me that b) employment generating proposals, and f) rural diversification, etc., are those that are relevant to this appeal.
11. Be that as it may, the previous application was clearly thought to come within the parameters of policy or a temporary permission, with a view to testing the impacts, would not have been granted. In confirmation of this, the officer commented that *"there are no fundamental objections to the proposal"* (report paragraph 5.1.3); and the temporary permission was *"for the Council to be able to assess the impacts on the development in terms of impact on the character and amenity of the area and noise over a temporary period before deciding whether to grant a permanent consent"*.

Design and impact of the proposed development

12. Section 5.2 of the officer's report carries this heading. I record here the conclusions that are drawn under this heading
 - *"Due to its distance from the road and the presence of surrounding vegetation, it is unlikely that the marquee would have a significant impact on the streetscene. However, there are likely to be some views of it from within the surrounding area due to the flat topography of the surrounding land. Due to its temporary nature and appearance, it is unlikely to be suitable to allow this to be in place permanently"*.
 - (whilst Covid-19 has made things difficult) *"... as there is over a year left until that application expires ... there is still time for events to be held, and for it to be demonstrated whether the development would be suitable to be undertaken on a permanent basis. Therefore, it would not be considered appropriate to grant a permanent consent as it is*

considered necessary for a trial period to be undertaken to demonstrate that there will not be any harmful impacts on the character and amenity of the area".

- *"Lighting is proposed however subject to conditions regarding its use/timings, this would not impact upon the character of the area".*
13. Without going into more detail, or quoting further from the report, the officer also concludes that any potential impact of the proposed development on residential amenity could be satisfactorily dealt with by imposing suitable conditions dealing with lighting and noise, although this has not been tested by a trial period of operation. In addition, there are no concerns on the basis of highway safety, nor in terms of outside amenity space for the host dwelling. The overall conclusion of the officer is that *"overall, it is not considered appropriate to grant a permanent consent as it is considered necessary for a trial period to be undertaken to demonstrate that there will not be any harmful impacts on the character and amenity of the area"*. However, the possibility of another temporary permission to test the otherwise positive conclusions is not considered.

Conclusions

14. From what I saw at my site visit I am satisfied that the marquee would not have any significant harmful impact on the surrounding area. Thus the main concern must be about noise and disturbance, both in terms of the tranquillity of this rather remote part of the Dengie Peninsular, and on neighbouring residential occupiers. As already noted (paragraph 5 above), the nearest neighbouring dwellings are situated approximately 500m to the south east of the appeal site, on the opposite side of Maldon Road. In my judgement it is only intrusive noise that could cause a harmful impact on these dwellings.
15. The appeal application was accompanied by a 'Wedding Venue Noise Assessment' prepared by a firm of acoustic consultants. There has been no criticism of this report made by the council or others. I note that, in addition to the obvious possibility of noise nuisance from the playing of music, the report also dealt with noise from departing cars in the hour after the end of events. The conclusions of this assessment, which I can deal with in brief, were as follows (from paragraph 4.1):
- *"Subject to certain physical mitigation and management measures, music noise breakout can be controlled to meet strict thresholds at the nearest property, such that there would be no significant impact from this source of noise."*
 - *Noise from external activity in the garden area, related to a busy daytime period during a wedding, would be well within the guideline values at the nearest property and well below the existing noise climate, such that there would be no significant impact from this source of noise".*
- And (paragraph 4.2: *"Therefore, on all methods of assessment, that there would be no significant adverse noise impact from the wedding reception marquee as a wedding venue"*.
16. In addition, the report made the following recommendations of mitigation measures to be implemented:
- *"Internal music noise limit in the marquee of 95 dB L_{Aeq, 5mins}*

- *Perimeter noise monitoring to be undertaken to ensure no excessive noise at the boundary”.*

These matters could be dealt with by conditions on any planning permission.

17. I note that the initial family wedding and the ‘trial runs’ did not elicit any complaints and that the parish council made no objection at application stage, and nor were there any other representations from local people. I agree with the officer’s opinions, as set out in paragraph 12, first and third bullet points and in paragraph 13, above, that any potential impact of the proposed development on residential amenity could be dealt with by conditions dealing with lighting and noise, and that there are no highway safety concerns.
18. I am therefore satisfied that the appeal should be allowed, and planning permission granted without the need for a limited trial period.

Conditions

19. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; conditions 3 to 13 are to ensure that the use operates only for the period and in the manner specified in the application, in order to protect the character and appearance of the area and the amenity of the host dwelling and neighbouring sites. Condition 14 is to ensure that waste, debris, etc is dealt with in a manner that protects the site and surrounding area from litter, in order to protect the character and appearance of the area and the amenity of the host dwelling and neighbouring sites.
20. For the avoidance of doubt, condition 14 does not prevent events taking place prior to compliance with it. The condition is to ensure that satisfactory facilities are in place for the longer term.
21. The appellant suggests that there is no necessity for conditions dealing with waste and refuse and external lighting. I do not agree, as I consider that these are matters that could be damaging to the character and appearance of the area, and the requirements of conditions 11 and 14 are not onerous, and otherwise meet the 6 tests for conditions laid down in paragraph 56 of the National Planning Policy Framework.
22. I do not consider that the suggested condition regulating the materials used for the marquee is necessary, since the application form simply noted that it would be ‘canvas’. Nor do I consider that a condition requiring a noise attenuation device is necessary in view of the requirements of condition 7. Since the events will take place on an existing garden area there will be no need for details of surface water drainage to be agreed, nor foul drainage as the existing facilities will be used, as covered by condition 13; it maybe that temporary toilet facilities are brought in for events, but I do not see the necessity to deal with this by condition since the site is otherwise part of the private garden of the host dwelling. Since effectively the site cannot be seen other than within the curtilage of the host dwelling, I do not see the necessity to prohibit tables and chairs from the area outside the marquee. There is no need for a condition dealing with parking since the parking will take place as indicated on the

parking plan, on a grasses area that is extensive enough to serve an event of the scale allowed.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans and documents: Location Plan, Block Plan, Floor and Elevations, and Sharps Redmore Noise Report (08.01.2020).
- 3) The use hereby permitted shall only be operational and open to customers/visitors/guests from the 1 March to 30 September in the same calendar year and at no time outside the stated period. There shall be no more than 14 events held on the site, with no more than 1 event in a week.
- 4) The marquee and any associated structures/works will be removed from the site outside of this period 1 March to 30 September, and the site returned to its original condition.
- 5) The premises shall only be open to customers/visitors/guests between 09:00 hours and 00:00 hours Monday – Sunday. Any staff in connection with the use shall not be on the site before the hours of 08:00 on event days and after 01:00 following the event.
- 6) There shall be no more than 80 persons attending an event on site at any one time, unless otherwise agreed in writing with the local planning authority.
- 7) The music noise level measured inside the marquee during events shall not exceed 95dB LAeq (5 minutes).
- 8) All amplified or other music associated with the use hereby permitted shall cease at 23:30 hours.
- 9) The Noise Management Plan within Appendix B of the submitted Noise Assessment shall be followed/implemented during all events.
- 10) No public entertainment or public address system whatsoever, including but not limited to amplified sound or the playing of amplified music, shall take place on site other than within the marquee.
- 11) No means of external illumination of the site shall be installed unless otherwise agreed in writing by the local planning authority. The external illumination shall be utilised only during events, maintained and retained in accordance with the approved details thereafter.

- 12) Except for the use of the basement/lower ground floor for toilet and cloakroom purposes, no other activity in connection with the wedding and event use or marquee shall take place anywhere within the house.
- 13) The use hereby permitted shall only be undertaken by the registered owners and occupants of the dwelling known as 'Highfields' as shown within the red line boundary on the approved location plan.
- 14) Within 1 month of the date of this decision, a Management Plan and Cleaning Strategy detailing the means of refuse storage, including any bin stores, detailing how any waste or debris as a result of the use will be cleared from the site to ensure no litter travels outside of the site, shall be submitted in writing to the local planning authority for approval. No event approved by this permission shall take place after the local planning authority's approval of this in writing without compliance with the approved scheme. The Management Plan and Cleaning Strategy shall be implemented thereafter for each event for as long as the events hereby permitted take place.