



Appeal Decision

Site visit made on 9 January 2023

by Zoe Raygen DipURP RTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2023

Appeal Ref: APP/T2405/W/21/3286638

Tithe Barn, Main Street, Cosby LE9 1UW

- 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 David Marriott, Tithe Barn against the decision of Blaby District Council.
 - The application Ref 20/1127/FUL, dated 20 October 2020, was refused by notice dated 12 May 2021.
 - The development proposed is erection of temporary structure, Aluminium frame with clear pvc coverings to provide seating area to assist with Covid 19 regulations, inclusion of 3 glazed doors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal site is in a conservation area and concerns listed buildings, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The Council has confirmed that the Cosby Neighbourhood Plan (the CNP) has been approved at referendum and is due to be reported to Council on 31 January with the recommendation that it be formally made. Both parties are of the opinion that the CNP now carries full weight in the decision making process and relevant policies to be considered are Policy CNDP1 and CNDP3. I see no reason to disagree.

Main Issues

4. The main issues are:
 - the effect of the proposal on the setting of St Michael and All Angels Church a Grade II* listed building and Tithe Barn a grade II listed building and on the character and appearance of the Cosby Conservation Area; and
 - The effect of the proposal on highway safety.

Reasons

Heritage assets

Significance

5. The Tithe Barn is a grade II listed building. It is described in the list description as a barn of seventeenth century origin with later alterations. The appellant

confirms it was historically part of a range of agricultural buildings that stood to the rear of Main Street, with only this and one other building remaining. It has cruck and box framing with brick nogging and a thatch roof. Following a comprehensive refurbishment, it is noted that much of the visible fabric dates from the late twentieth century with the exception of the original timber framing.

6. Although little remains of the original fabric, the building nonetheless in its current form, provides good visual representation of the agricultural origins of the village. It therefore has historical and architectural significance. It is of single storey and, being mostly surrounded by taller buildings, has limited visibility in the wider area. As a consequence, the open courtyard to the front of the building is particularly important in allowing an understanding of the former use as a barn and an appreciation of the principal elevation of the building. The immediate setting therefore contributes considerably to the significance of the listed building.
7. St Michael and All Angels Church is a grade II* listed building. Originating from the eleventh century with later additions particularly in the thirteenth, fourteenth and fifteenth centuries. Constructed from random granite rubble and cobbles and dressed stone with ashlar dressings and lead roofs, it has a set back octagonal spire. The age and location of the church reflects its social and community importance and forms an important historic landmark building and it has great architectural and historic significance.
8. Its immediate setting is defined by its grassed surroundings, partly forming a graveyard to the rear of the building, sited at an elevated level to Main Street contained by a stone wall. Due to its position within a cluster of buildings, views of the main body of the Church are restricted from many wider vantage points with the exception of the spire which enables the location of the Church to be apparent from many places within the village. The Church as a whole is visible from Main Street dominating views here, where it is visible, enabling its standing in the village to be understood. I find that the setting of the building, insofar as it relates to this appeal, to be primarily associated with its visibility within the immediate and wider area and that this directly contributes to its significance and special interest in a modest way.
9. The Cosby Conservation Area (CCA) covers the historic central area of Cosby, mostly along Main Street, where the built form is located alongside a stream running adjacent to the road creating a wide throughfare between buildings. This creates a feeling of space within the area. Most built form is of a domestic two storey scale with a variety of architectural style and a mix of modern and historic buildings. Building materials are predominantly red brick or render which provide a unifying characteristic through the CCA. The significance of the CCA for the purposes of this appeal therefore relates to the relationship of buildings and space and the domestic character of the built form.
10. As a good example of a historic building in the settlement which retains some traditional materials, the appeal building contributes positively to the significance of the CCA. The position of the entrance and the courtyard setting allows good visibility of the listed building from Main Street.

Effect on significance

11. The structure would be placed in the large open area to the front of the Tithe Barn and side of the Church. According to the Council it would measure 4.4m to the ridge and 2.2m to the eaves, 15.2m in width and 12.1m in depth. These measurements have not been disputed. As a consequence, it would be a large, obtrusive structure that would cover much of the open area between the heritage assets.
12. I appreciate that Historic England Guidance¹ states that there should not be a presumption against temporary structures simply because they are visible in the historic environment. In choosing a location, the visual impact on heritage assets and their setting should be considered and any adverse impact on key views should be minimised, both within the site and beyond.
13. However, although single storey it would mostly obstruct the key view of the front of the Tithe Barn, with only parts of its roof remaining visible. The guidance suggests that visual intrusion can often be reduced by choosing a location shielded by existing features such as walls and trees. This structure would be very visible from Main Street and on the pedestrian walkway through to Church Farm Close. As a result, it would be an intrusive feature with a stark appearance which would reduce openness and detract from the appearance of the listed building, diminishing the legibility of its principal elevation. Consequently, the contribution the historic building makes to the character and appearance of the CCA, would also be considerably reduced.
14. I appreciate that the materials have been purposefully chosen in an attempt to minimise harm. However, their difference to the predominant construction materials further draws attention to the structure making it more obvious in views detracting from the historic environment. I am also doubtful, based on the photographs supplied by both the appellant and the Council, of the ability to see through the structure, with any great clarity, to the heritage assets beyond.
15. Due to the size of the Church, some, and particularly the spire, would still be visible above the structure. While there would still be a good appreciation of its historical and architectural significance from Main Street, it would be somewhat diminished by the presence of the prominent structure creating a minor level of harm.
16. Given the above, I find that the proposal would fail to preserve the significance of the listed buildings and the CCA. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Parties concur that the harm would be less than substantial. In this instance I agree, but nevertheless it is of considerable importance and weight.

¹ Historic England Guidance: Temporary Structures in Historic Places (pub. March 2010)

17. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
18. The original impetus for the requirement for the structure was to cope with restrictions put in place during the pandemic to allow the café to have the same number of covers throughout the year while having to operate within the confines of social distancing. Clearly these have now been removed and the café is free to operate as it was prior to the pandemic without the need for social distancing. However, due to the restrictions being in place, the appellant advises that the café remains in debt due to being unable to trade for a large part of 2020/21 and it is anticipated that it will take up to an additional 5 years for the business, operating with the marquee, to recover from the debt imposed by the pandemic. Without the marquee being in place the appellant considers that the business could fail with the loss of 22 jobs.
19. While the Government is generally supportive of initiatives to counter the impacts of the pandemic and this would be an important public benefit, there is very limited substantive evidence before me to demonstrate that without the presence of the structure the business would fail, such as a business plan, bank statements or business recovery plan. As such I can only afford this, and the associated suggestion of a five year temporary permission minor weight.
20. Historic England guidance suggests that the duration of the structure and the season of the event can be important factors. Although the structure would only be in position for six months every year and would be capable of being removed quickly, it would still be in place and harmful for a significant part of the year. Therefore, I give this benefit modest weight.
21. If the business fails the appellant alleges that the building would be left vacant and could potentially deteriorate. However, I have no substantive evidence before me to suggest that if the current business in the Tithe Barn were to fail that an alternative user could not be found that would ensure that the building was maintained and would serve as a local community use.
22. Consequently, given the above and in the absence of any defined substantiated and significant public benefit, I conclude that, on balance, the benefits would not outweigh the harm to the heritage assets, whether balanced individually or cumulatively, and the proposal would fail to preserve the setting of the Grade II and Grade II* listed buildings and the character or appearance of the Cosby Conservation Area. This would fail to satisfy the requirements of the Act, the Framework and conflict with Policies CS20 of the Blaby District Local Plan (Core Strategy) Development Plan Document 2013 (the Core Strategy), DM12 of the Blaby District Local Plan Delivery Development Plan Document 2019 (the DPD) and Policy CNDP1 of the CNP. Together these seek, among other things, to ensure that proposed development avoids harm to the significance of historic sites, buildings or areas, including their setting. And to preserve or enhance the CAA.

Highway safety

23. The Council is concerned about the level of provision of off street car parking in order to avoid any harm to highway safety and the character and appearance of the CCA.

24. When the planning permission for the café at the Tithe Barn was originally granted the Local Highway Authority (LHA) permitted reduced car parking numbers, allowing a total of 12 parking spaces as shown on Drawing A65 P001 rev B which was the subject of a condition on the planning approval.
25. The proposed structure would result in the loss of one staff parking space for Tithe Barn and two parking bays for the adjacent office building. However, the appellant advised at the time of the consideration of the planning application that works had been carried out to remove trees (with permission) and provide four further car parking spaces. I saw this to be the case at my site visit. Furthermore, the staff parking space is, I understand, no longer required as the associated operations were moved off site. As a result, therefore, even with the marquee in place there would be a net increase of two car parking spaces. On that basis the LHA withdrew its objection.
26. Covers would increase during the winter, due to the provision of the marquee, and there would be a minor increase in capacity over and above that available during summer. However, given that there would be an increase in parking provision I am satisfied that there would be no harm to highway safety or the character and appearance of the CCA due to any increase in on street parking. There would therefore, be no conflict with Policies CS20 of the Core Strategy, DM8 and DM12 of the DPD and Policies CNDP1 and CNDP3 of the CNP in this respect which require that proposed development avoids harm to the significance of historic sites, buildings or areas, including their setting and provide an appropriate level of parking and do not have a severe cumulative adverse effect on the safe and efficient operation of the existing transport and road infrastructure.

Conclusion

27. The proposal would be harmful to heritage assets and that harm would not be outweighed by public benefits. The proposal is therefore in conflict with the development plan as a whole. The lack of harm to highway safety is neutral in the planning balance. The benefits which I outline above are not sufficient to outweigh that conflict and therefore the appeal is dismissed.

Zoe Raygen

INSPECTOR