

APPENDIX C: Appeal Decision Notice for PL/20/0401/FA



Appeal Decision

Site visit made on 1 March 2022

by **L Page BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/X0415/W/21/3278072

St Leonard's Church Hall, Glebe Way, Chesham Bois HP6 5ND

- 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 Leonard's Parochial Church Council against the decision of Buckinghamshire Council.
 - The application Ref PL/20/0401/FA, dated 31 January 2020, was refused by notice dated 15 January 2021.
 - The development proposed was originally described as redevelopment of the site to create a new multifunctional parish centre, a church led cafe, purpose built day nursery, replacement rectory, additional staff dwelling (keepers cottage) and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal, Natural England issued new advice regarding significant recreational pressure upon Chilterns Beechwoods Special Area of Conservation (SAC) and that there could be implications for new housing within the 12.6km zone of influence. The 12.6km zone of influence includes land within Buckinghamshire Council (Aylesbury Vale and Chilterns Districts) and the site subject to this appeal. Parties were given an opportunity to comment on any potential implications and the matter has been treated as a main issue under the appeal.
3. The appellant identified a potential oversight in notifying the parish council. However, it is not clear whether this is in reference to informal notification and consultation conducted by the appellant or otherwise. Whatever the case may be, I have no reason to question whether the parish council have been formally notified of the original application or the appeal. Indeed, they have engaged fully throughout and have not been prejudiced during any of the proceedings.
4. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to give special regard to the desirability of preserving listed buildings and their setting pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. Notwithstanding the wording in the reasons for refusal, these statutory requirements have helped determine the main issues.
5. Parties were given an opportunity to comment on the revised National Planning Policy Framework (the Framework), and any comments pertinent to the appeal have been considered accordingly.

<https://www.gov.uk/planning-inspectorate>

Main Issues

6. The main issues are the effect of the proposal on the:
 - (a) integrity of Chilterns Beechwoods SAC;
 - (b) character and appearance of the area, including Chesham Bois Conservation Area and the setting of The Old Rectory and stables;
 - (c) living conditions of neighbouring occupiers; and
 - (d) highway safety.

Reasons

Chilterns Beechwoods SAC

7. The site is within Chilterns Beechwoods SAC's 12.6km zone of influence. Advice from Natural England¹ is clear in that net increases in residential development in the zone of influence would result in likely significant effects on the SAC. This is due to the fact that recreational impacts cannot be ruled out. Whilst I recognise the appellant's point that the site is towards the outer limits, it is still captured by the zone of influence and considerations relating to recreational impacts are still relevant to the proposal.
8. I am also mindful that the zone of influence has been drawn to capture the site despite the potential presence of other recreational opportunities elsewhere. Indeed, it may well be the case that future residents would utilise other recreational opportunities nearby, but there is no evidence to suggest that they would utilise these exclusively and avoid Chilterns Beechwoods SAC in its entirety. Therefore, likely significant effects would remain.
9. Consequently, it is clear that an appropriate assessment under the Habitats Regulations is required. In this context, whilst I recognise the difficult timing of the emerging advice from Natural England, there is insufficient evidence submitted in support of the proposal to conclude that its impacts, whether alone or in combination, could be avoided or mitigated² so that the integrity of the SAC would be preserved.
10. Overall, there is insufficient evidence the proposal would preserve the integrity of Chilterns Beechwoods SAC and consequently there would be conflict with Policy CS24 of the Chiltern District Core Strategy 2011, Paragraph 180 of the Framework, and the Habitats Regulations.

Character and Appearance

11. The site is on land at the eastern end of Chesham Bois Common and sits within an extensive area of woodland with mature boundary features. Consequently, the site is heavily screened from public view. This also means that the site is visually distinct from the surrounding residential development along North Road³, Bois Lane and South Road, which fronts onto Chesham Bois Common. Whilst there are some limited views of the existing buildings when looking towards the site from North Road, the general impression is still one of a heavily wooded appearance.

¹ in their capacity as the statutory nature conservation body under the Habitats Regulations

² such as contributions to strategic mitigation and secured by planning obligation

³ Areas of which are designated as an Established Residential Area of Special Character

12. The existing parish centre occupies the northern part of the site and comprises a two storey building with facilities including offices for the parish council and parish church and space for a nursery and other community activities. There is a modest car park serving the parish centre and this is accessed off Glebe Way. The wide range of facilities on offer at the site means that activity levels would be noticeable throughout each day and evening of the week. Consequently, there is an established baseline of activity involving the comings and goings of people and vehicles, associated lighting and noise, altogether contributing to a character that is not of rural tranquillity.
13. The existing rectory occupies the southern part of the site and comprises a two storey building and is in mixed use with a residential element and business element associated with the parish church. It is separated from the parish centre by established boundary features and benefits from its own access off of Glebe Way. An extensive garden area occupies the southern and western parts of the site and generates an appreciable degree of openness, albeit this is not perceptible from public land due to intervening screening.
14. Chesham Bois Conservation Area includes the site within its boundaries. Among other things, the conservation area derives some of its heritage significance⁴ from the common, attractive woodland areas, fields, trees, and hedges; all of which in combination give rise to a feeling of rural tranquillity across much of the conservation area. In addition, the conservation area also derives some of its heritage significance from the pleasing contrast between dense groups of small late 19th century terraced and semi-detached cottages and the larger detached houses which stand in substantial plots.
15. Whilst the site may make a modest contribution to the setting of buildings within the conservation area through its wooded appearance, it is clear that it cannot be regarded as contributing to the feeling of rural tranquillity. This is because the existing baseline of activity creates a character with greater degrees of vibrance.
16. It could be argued that some of the existing buildings provide neo arts & crafts design of reasonable quality, but they do not make an appreciable contribution to the special architectural interest of the conservation area. This assessment is reinforced by the fact that views into the site are heavily screened, and the buildings cannot be fully appreciated as part of the conservation area as a whole.
17. Grade II listed buildings of the Old Rectory and associated stables are located directly to the north west of the site and the majority of their heritage significance is derived from their special architectural interest. Mature boundary features separate the site and screen the majority of the Old Rectory and stables from view. Consequently, the architectural aspects of these buildings are mostly appreciated from within the grounds of the Old Rectory itself or from North Road. Historically, the Old Rectory included land⁵ that has since been ceded to the existing rectory and due to the presence of mature boundary features the historical association is not readily identifiable. Altogether, the site makes a limited contribution to the appearance of the listed buildings' setting.

⁴ Chesham Bois Conservation Area Appraisal 1995

⁵ Known as Glebe Land

18. In relation to the character of the listed buildings' setting, the situation is very similar to that already described in my assessment of the site's role as part of the conservation area, in that the character of the site is not one of rural tranquillity but one of appreciable vibrance and activity.
19. All of the existing buildings on the site would be demolished under the proposal. However, these are of limited architectural interest and heavily screened from public view so their loss would not be harmful in the round. Furthermore, the design of the buildings proposed would be of greater architectural interest and this would enhance the built form at the site.
20. The new parish centre is the largest building being delivered under the proposal. Whilst the size of the building's footprint is appreciable in extent, the height and roof profile of the building has been carefully designed into a draped canopy. This provides a more natural form and, alongside the use of sensitive materials and extensive glazing creating views through the building, would ensure it assimilates with the wooded appearance of the site and would not give rise to a sense of dominance or intrusion from adjacent public land.
21. I am also mindful of the consultation response provided by the Council's Principal Conservation & Listed Buildings Officer, where it is set out that the new building would contain a pleasing mixture of rectangular forms and where the planar timber clad walls would be relieved above by a sinuous and undulating monolithic low pitched roof form, covered in a living sedum and green roof material.
22. Notwithstanding the Council's argument that the size and form of the parish centre would not respond to the local area, in my view, the appearance of the building would better reflect the site's wooded context in comparison to the existing parish centre which, although representative of the century within which it was built, does not respond to the surrounding environment in the same way.
23. The building would take on a more contemporary appearance and depart from the traditional building designs that are apparent throughout the conservation area, but I am satisfied that the quality of design and the role of the building as a central component of the community, would deliver a high quality of design that embraces the woodland setting.
24. Indeed, guidance⁶ sets out that there is a place for contemporary and innovative architecture or more interesting designs which demonstrate adherence to the basic principle of being in harmony with their site and the surrounding buildings and countryside. Therefore, and altogether, it is reasonable to conclude that the new parish centre would enhance the conservation area's built form.
25. The other buildings proposed are much smaller by comparison and through the use of sensitive materials would generally be inconspicuous within the landscape, as would any associated paraphernalia, especially in the context of the mature boundary features of the site, whilst any views into the site through access points would be limited and fleeting.

⁶ 3.31 of Chilterns Buildings Design Guide 2010

26. Furthermore, the size of the site allows for generous set-backs and separation between buildings, which in conjunction with landscaping, helps maintain a degree of openness without giving rise to a feeling of overdevelopment.
27. Whilst I acknowledge that the new rectory would be sited close to the boundary with North Road I am satisfied that no harm would arise. This is based on the photomontages provided, where it is clear that the visual prominence of the new rectory would be similar to the existing parish centre and mitigated by additional tree planting. Furthermore, although the Council make contentions about a building line, the sporadic nature of buildings along this side of North Road means that an established building line is not readily apparent and therefore one cannot be breached.
28. The proposal would increase the car parking provision at the site. However, it is clear from the evidence before me that there are opportunities to restrict the use of tarmacadam and white line painting and secure an appropriate surface treatment that is more in keeping with the appearance of the conservation area. For example, securing the use of paving and other materials with greater heritage aesthetic, along with intervening landscaping, would help the larger car park better assimilate into the wooded context.
29. The car park would extend westwards in parallel with The Old Rectory and stables. However, the lack of direct association and screening provided by the mature boundary treatments on this part of the site would mitigate any harm to the setting of these listed buildings.
30. I note the Council's argument regarding light spillage from the larger glazed areas and light and noise would be generated by people and vehicles making use of the proposal's facilities. I am mindful that there is already a baseline of activity and therefore the site is not one of rural tranquillity. Consequently, the potential for harm to the character of the immediate area is significantly reduced. Furthermore, conditions can secure measures to help mitigate potential disturbance by controlling operating hours, noise, and lighting within the grounds and from within the buildings themselves.
31. Whilst the buildings generally preserve and enhance the character and appearance of the conservation area in their own right and in the existing context of the site, I am mindful of the fact that in broad terms the proposal is also supported by a robust landscaping scheme. This would reinforce the woodland appearance of the site and provide additional screening of the proposed buildings, from public land and from the grounds of the Old Rectory.
32. Altogether, the proposal would preserve and enhance the wooded appearance of the site without harming the rural tranquillity and character of the wider conservation area or the setting of the listed buildings adjacent. Furthermore, the loss of existing buildings on site, which make a limited contribution to the conservation area, would not be harmful, and the new parish centre would make a positive contribution to the conservation area.

33. Overall, the proposal would preserve and enhance the character and appearance of the area, including Chesham Bois Conservation Area and the setting of The Old Rectory and stables. In this context, an absence of harm means that an assessment against the public benefits is not required in this case. Accordingly, the proposal would not conflict with Policies GC1, CA1, CA2 and CSF1 of the Chiltern District Local Plan 1997 or Policies CS20 and CS29 of the Chiltern District Core Strategy 2011.
34. Among other things, these development plan policies reflect the statutory duties set out within Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which require decision makers to give special regard to the desirability of preserving listed buildings and their setting and pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas, something I have given considerable importance and weight in my assessment.

Living Conditions

35. The Old Rectory is a large dwelling on a substantial plot with mature boundary features along its eastern boundary, which provide effective screening from the site. The Old Rectory has a large rear garden area, creating a setback which, in conjunction with mature boundary features along its southern boundary, provides effective screening from the existing rectory's garden area. Consequently, whilst there are glimpses through the mature boundary features along the southern boundary, the outlook of occupiers at the Old Rectory is largely self-contained.
36. It has already been established that the baseline of activity at the site does not give rise to a feeling of rural tranquillity. Consequently, the potential for disturbance, including from lighting and noise generated by the movement of people and vehicles already exists to some degree. In practice, much of this potential disturbance is already mitigated by the mature boundary features surrounding the Old Rectory.
37. Indeed, the existing movement of people and vehicles is in very close proximity to the eastern boundary of the Old Rectory, and no significant reports of complaints regarding this current relationship have been referred to in the evidence before me.
38. The proposal would deliver new buildings of a similar multifunctional use. Consequently, the activities and movement of people and vehicles would be of a similar nature. The new parish centre would be set back from the Old Rectory's eastern boundary and the majority of activity would be concentrated further away as a result, representing an improvement over the siting of the existing parish centre.
39. The car park would be adjacent to the eastern and southern boundaries of the Old Rectory. However, robust landscaping proposals would eliminate glimpses through existing mature boundary features, which in conjunction with hard landscaping such as fences and gabion walls would be effective in mitigating potential disturbance caused by vehicle headlights, among other things.

40. The car park would also be larger, but the majority of additional spaces would be set back to the south of the site. Consequently, in a similar scenario to the revised siting of the new parish centre, the majority of activity would be further away as a result and potential sources of disturbance such as the opening and closing of vehicle doors and vehicle manoeuvring would be limited by distance, intervening mature boundary features and hard landscaping.
41. Altogether, the existing baseline of activity at the site, in conjunction with sensitive siting and enhanced landscaping, would help control the effects of any modest intensification of the use. Furthermore, I am mindful that conditions can provide additional mitigation. For example, by controlling operating hours, noise, static lighting direction and intensity.
42. Overall, the proposal would not harm the living conditions of neighbouring occupiers and would not conflict with Policy GC3 of the Chiltern District Local Plan 1997.

Highway Safety

43. The existing parish centre access off of Glebe Way is only wide enough for a single vehicle. However, there is no evidence that the access does not safely accommodate the intensity of traffic generated by the existing use. For example, there is no evidence of accidents, indiscriminate parking along Glebe Way, or other such data to indicate that the existing access arrangements are unsafe.
44. Intensity of traffic would increase under the proposal. However, it is clear from the evidence before me that the existing access is to be widened so that two vehicles would be able to pass safely, whilst trip generation data suggests there is sufficient capacity on the highway network and parking provision on site to accommodate the additional vehicle movements. A travel plan could also be secured by condition to provide additional mitigation and encourage a shift to more sustainable forms of transportation.
45. The proposal's visibility splays could be achieved in perpetuity in accordance with Manual for Streets. These could be secured by Grampian style condition, and I am satisfied that there is a process to seek permission to undertake works on common land in order to overcome potential barriers to implementation and allow the condition to be complied with within the time limit of any planning permission.
46. The secondary access to the site which currently serves the existing rectory has limited movements. Consequently, whilst it would close to vehicles under the proposal, benefits relating to the reduction of vehicle conflicts and highway safety improvements would also be limited.
47. Overall, the proposal would not harm highway safety and would not conflict with Policy TR2 of the Chiltern District Local Plan 1997 or Policy CS26 of the Chiltern District Core Strategy 2011.

Other Matters

48. A significant number of interested parties made representations in response to the original application and to this appeal. Generally speaking, many of the matters raised relate to the main issues dealt with earlier in the decision. I comment below on other matters raised.

49. There is no evidence before me that community dissatisfaction in and of itself would make the proposal unviable or that this should be a factor weighed in the balance in this particular case.
50. The proposal is supported by an energy statement, among other things, and I am satisfied that those matters relating to climate change have been adequately addressed.
51. Whilst the wider common may be accessible to the public, and provides valuable open space in this context, it is clear that the site is private land without public access benefits.
52. Thames Valley Police made representations on design safety but there is no evidence that the area suffers from higher crime rates. Furthermore, there is a clear strategy for separating publicly accessible areas and those which can be kept private and secure.
53. On 9 November 2021, the Environment Act 2021 (c. 30) (the Act) received Royal Assent. The purpose of the Act is to make provision for targets, plans and policies with the intention of improving the natural environment, including provisions for a mandatory biodiversity net gain objective.
54. The objective is met when the biodiversity value attributed to the development exceeds the pre-development value of the onsite habitat by at least 10%.
55. However, it is clear that the Act is primary legislation and provisions relating to this objective require secondary legislation before coming into force and, in any event, biodiversity enhancements could be secured by condition.

Conclusion

56. Whilst the proposal would preserve and enhance the character and appearance of the area including Chesham Bois Conservation Area and the setting of The Old Rectory and stables and would also be acceptable in relation to living conditions and highway safety, there is insufficient evidence to conclude that it would preserve the integrity of the Chilterns Beechwoods SAC.
57. Given the international importance of these sites, harm in relation to such matters carries overriding weight under the appeal. As such, the proposal would conflict with the development plan as a whole. Furthermore, the Framework and the Habitats Regulations are clear that planning permission must not be granted given the circumstances that are present in this case and the appeal must be dismissed.

Liam Page

INSPECTOR