
Appeal Decision

Site visit made on 27 March, 2017

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12th April, 2017

Appeal Ref: APP/G2245/W/16/3159796

St John the Baptist Church, Hosey Hill, Westerham, Kent, TN16 1TB

- 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 the RC Diocese of Southwark against the decision of Sevenoaks District Council.
 - The application Ref SE/16/00321/CONVAR dated 3 February, 2016 was refused by notice dated 3 May, 2016.
 - The application sought planning permission for the erection of a single storey building of pitched roof design to be used as a Church room on land adjacent to St John the Baptist Church without complying with conditions attached to planning permission Ref SE/15/00367/FUL, dated 22 September, 2015.
 - The conditions in dispute are Nos 5 and 6 which state that:
 - 5) *The hereby approved building shall not be used outside of 08:00 to 22:00 Monday to Saturday and 08:00 to 21:00 on Sundays and Bank or Public Holidays; and*
 - 6) *The hereby approved building shall only be used as ancillary accommodation for the existing church and for church related activities and shall not be made available for hire by external bodies for any other purpose, including any purpose within Class D1 of the Town and Country Planning (Use Classes Order) 1987 (as amended).*
 - The reasons given for the conditions are:
 - 5) *To safeguard the residential amenity of surrounding occupiers in accordance with policy EN2 of the Sevenoaks Allocations and Development Management Plan; and*
 - 6) *To protect neighbour amenity and to safeguard highway safety in accordance with policy EN2 and T2 of the Sevenoaks Allocations and Development Management Plan.*
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey building of pitched roof design to be used as a Church room on land adjacent to St John the Baptist Church at St John the Baptist Church, Hosey Hill, Westerham, Kent, TN16 1TB in accordance with the application Ref SE/16/00321/CONVAR dated 3 February, 2016, without compliance with condition numbers 5 and 6 previously imposed on planning permission Ref SE/15/00367/FUL dated 22 September, 2015 and subject to the conditions set out in the schedule to this decision.

Background

2. I saw during my site visit that the building approved by planning permission SE/15/00367/FUL is complete and is evidently in use in connection with the adjacent St John the Baptist Church. The appellant wishes to extend the permitted hours of use of the building by one hour to 2300 on Wednesdays, and to allow overnight use until 08:00 the next day up to five times per year
-

for special occasions, which are currently restricted by condition 5. They also seek to hire out the hall to external users for one day per week, which is currently restricted by condition 6. The appellant seeks the variation of conditions 5 and 6 to accommodate these requirements.

Main Issues

3. The main issues are:

- i. The effect that varying condition 5 would have on the living conditions of nearby occupiers, with particular regard to noise, disturbance, and light pollution.
- ii. The effect that varying condition 6 would have on highway safety, with particular regard to parking provision, and on the living conditions of nearby occupiers, with particular regard to noise, disturbance, and light pollution.

Reasons

4. The recently constructed building referred to as the church room or parish room is situated between the church and the presbytery. It consists of a modest meeting room with a small open-plan kitchen area, and a separate storage area and toilet facilities behind. The church car park is located on the other side of the church, and is accessed from Hosey Hill by a driveway situated between the church and the neighbouring property, Little Squerryes.

Condition 5

5. Church committee meetings take place on Wednesdays, currently in the presbytery rather than the parish room as they generally run later than 22:00. Committee members are therefore already present on site on Wednesday evenings, and any cars used by them would already be in the car park. The route taken by committee members back to the car park would be marginally shorter from the parish room than from the presbytery, hence any associated sound heard by neighbours may be very slightly reduced in terms of duration. Furthermore, the appellant has suggested that the use of the parish room between 22:00 and 23:00 on Wednesdays could be limited to a maximum of twelve people, which would accommodate the committee. This could be specified in a varied condition. The effect of the one hour extension of use to 2300 would therefore be minimal in terms of the living conditions of neighbouring occupiers.
6. The effects of the proposed use of the parish room from 08:00 to 08:00 the next day in relation to special occasions, specified as vigils, up to five times a year would be similarly modest, albeit extended in duration. The appellant advises that during night vigils a limited number of parishioners take part in silent prayer in the church, on a rota basis. The parish room would provide refreshment facilities, which would be more comfortable for those taking part than the limited facilities within the church itself. The appellant strongly disputes that the availability of the parish room at such times would attract significantly more people to attend vigils, and there is no significant evidence before me to demonstrate otherwise.
7. Night vigils already take place in the church, and could reasonably be expected to continue to do so even if the parish room was not made available at these

times. Accordingly, a modest level of activity associated with parishioners arriving at and leaving the church would already be expected at these times, including vehicular and pedestrian movements to and from the car park.

8. The appellant is clear that the overnight use of the parish room would be purely as a support facility during night vigils, and I have determined the appeal on this basis. I therefore consider that the suggested variation to condition 5 is not sufficiently precise to ensure no harm to neighbours' living conditions because the term 'special occasions' could be construed to include other church events, such as weddings. Such events could attract more people and generate noise, thereby having a significantly greater potential to adversely affect the living conditions of neighbouring occupiers. While five night uses per year amounts to only a very small percentage, and the modest size of the parish room would self-limit its capacity, I nonetheless consider that a varied condition should refer specifically to the vigils in relation to which the variation is sought rather than the wider 'special occasions', so as to avoid any consequences of this nature. It would also be necessary to specify that the five overnight uses would be per calendar year, for clarity.
9. There may be a degree of light spillage from the external lights installed at the parish room and the church, and from inside the parish room due to its part-glazed frontage. However, this would be very modest given the apparent scale and location of the lights installed and I note that details of such have been discharged by the Council. Additionally, the nearest houses to either side are largely screened from the parish room by the church and the presbytery with the parish room being set back a little in relation to them. The closest house on the opposite side of the road is set up the hill, behind trees and a hedge, and sufficiently separated from the parish room that the effect of the lights there would not be significant in terms of the occupants' living conditions.
10. In light of the above, I conclude that the effect of the variation of condition 5 to allow use of the parish room until 23:00 on Wednesdays and in association with up to five night vigils per year would be very limited and would not amount to harm to the living conditions of nearby occupiers. It would therefore accord with adopted Policy EN2 of the Sevenoaks Allocations and Development Management Plan 2015 (ADMP), which seeks to safeguard the amenities of existing and future occupants of nearby properties, including in relation to excessive noise, activity or vehicle movements.

Condition 6

11. It is proposed that external hire of the building would be limited to one day per week, and would not take place at weekends or any other time that the church is in use for services, including funerals.
12. Policy T2 of the ADMP relates to the provision of vehicle parking. No related parking standards have been put to me, nonetheless the policy allows for account to be taken of any local circumstances such as highway safety concerns, local on street parking problems, accessibility, and the existing use and parking provision.
13. Hosey Hill was subject to light traffic at the time of my site visit around mid-morning, albeit it would be likely to be busier at some other times. There is a 30pmh speed restriction and I noted that there is an 'at any time' double yellow line waiting restriction in force on both sides of the road in the vicinity.

Vehicles I observed did not appear to be exceeding the speed restriction and there was no unauthorised on-street parking taking place, albeit I acknowledge that this was a snapshot in time when no church services or meetings were taking place.

14. The church car park has spaces marked out for about ten cars and there would be some space available for turning at that capacity. However, parking outside the marked bays would significantly hamper turning space and reversing onto the highway may ensue. I have been provided with a photograph indicating such a scenario, albeit the time, frequency and nature of the event associated with the level of parking shown are not clear or substantiated. As hire to external users would not take place at the same time as church services, the car park should be available for use by hirers. Due to the scale and nature of the facility it would not be practicable for it to be in use by the church community and external hirers at the same time.
15. Furthermore, there is no significant evidence before me to indicate that the current use of the parish room is resulting in inappropriate parking nearby, or to substantiate the view that its limited use by external hirers would be particularly likely to do so. I have not been provided with any specific details of incidents or accidents having occurred in the vicinity, including in connection with the use of the car park or any associated manoeuvres on the highway. I am advised of an incident involving a cyclist, but it is not clear that this related in any way to the use of the appeal site or the church car park. I saw that the centre of Westerham is within walking distance and hirers therefore may not be entirely reliant on car access. For these reasons, and given there is also no substantive evidence before me that the level of activity, parking demand and traffic generation associated with the use of the parish room by external hirers would be significantly different from its authorised use by the church, I consider that the proposal would not be likely to have any significant effect on highway safety if limited to one day per week.
16. The appellant advises that external hire would take place during the daytime only. I note the Council's concerns that the appellant's suggested variation to condition 6 would not prohibit evening use. However, the Council accepted in its delegated decision report that the use of the building by third parties during the hours set out in original condition 5, which includes evenings, would be unlikely to result in unreasonable harm to residential amenity. Given the relationship of the parish room to residential properties in the vicinity, as described above, the limited extent of hiring out proposed, and the modest scale and nature of the facility, I agree. Furthermore, the proposed variation to condition 5 would not materially alter the position. On this basis, external hire for one day per week would not be likely to amount to a significantly different level of activity compared to the authorised church-related use.
17. In light of the above, I conclude that the variation of condition 6 to allow use by external hirers for one day per week, to exclude weekends and when there are church services taking place, would not have a significant effect on highway safety, having particular regard to parking provision. It would also not have a significant effect on the living conditions of nearby occupiers, with particular regard to noise, disturbance, and light pollution. It would therefore accord with adopted Policies T2 and EN2 of the ADMP, the relevant requirements which are set out above.

Other Matters

18. The appellant's primary ground for appeal relates to the Council's decision being made after an agreed extension of time. However, this would not result in a deemed grant of permission for an application made under section 73 and I have therefore determined the appeal on its merits.
19. The site lies in the Green Belt and I note that the original planning permission was granted on the basis of very special circumstances having been demonstrated, principally in relation to the church community's need for the facility.
20. I have considered the various other matters raised by interested parties including that the variations were sought very soon after the original conditions were imposed, the church itself can accommodate all night vigils, there are other community halls available for hire nearby, security issues arising from all hours use, and that original condition 7 has not been complied with. An application to vary conditions may be made at any time following the original grant of planning permission. I note that the church currently accommodates vigils, and has a toilet within it however this in itself does not preclude the proposed use of the parish room, which I have considered on its merits. Similarly, the availability or otherwise of other halls for hire in the local area does not have a significant bearing on the merits of the specific proposal before me. There is no substantive evidence that the limited overnight use of the parish room would affect the security of nearby properties. The Council has not confirmed whether it has discharged condition 7, albeit the appellant advises that they have addressed its requirements. Either way, condition 7 is a matter for the Council and the appellant, and is not before me in this appeal.
21. The Council considers that in the event of the appeal being allowed this should be temporary for 1 year to allow the impacts to be fully assessed. The Planning Practice Guidance (PPG) sets out circumstances where a temporary permission may be appropriate, including where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change at the end of the temporary period. No likely changes in planning circumstances have been put to me. Given that the development is complete and operational, that the proposed variations are modest and the authorised church-related use will predominate, and that I have identified no significant harms arising or conflict with the development plan, I consider that a temporary 'trial run' is not justified or necessary.
22. I conclude that none of the matters discussed in this section of my decision add materially to the case for or against the appeal.

Conditions

23. I have had regard to the Council's concerns relating to whether overnight use on five occasions per year could be properly monitored and enforced. No significant justification has been provided as to why the proposed varied hours of use condition would be any less enforceable than the original condition. I am satisfied that the conditions as varied meet the six tests set out in Paragraph 206 of the National Planning Policy Framework and the related advice in the PPG.

24. The PPG also makes clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have little information about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. As the development has been completed, there is clearly no need for me to impose the time limit for commencement of development condition. The Council approved details relating to external lighting in relation to original condition 4 on 26 September, 2016. However, as that condition includes an ongoing requirement for outside lighting to be provided in accordance with approved details, I have imposed it again. In the event that other conditions have in fact been discharged, that is a matter which can be addressed by the parties. The varied condition 5 will become condition 4 of the new planning permission and varied condition 6 will become condition 5, as set out in the attached schedule.

Conclusion

25. For the reasons set out above I conclude the appeal should be allowed.

Catherine Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 457/A1/03/A; A3/04/A; and 05/A.
- 2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.
- 3) Details of any outside lighting shall be submitted to and approved in writing by the Council before installation. Despite any development order, outside lighting shall only be provided in accordance with the approved details.
- 4) The hereby approved building shall only be used between the following hours:

08:00 to 22:00 on Mondays, Tuesdays, Thursdays, Fridays and Saturdays;

08:00 to 23:00 on Wednesdays, when no more than 12 people shall be in attendance between 22:00 and 23:00; and

0800 to 2100 on Sundays and bank or public holidays.

On not more than 5 occasions per calendar year the building may be used from 08:00 to 08:00 the next day for ancillary purposes in connection only with night vigils taking place in the church.
- 5) The hereby approved building shall only be used as ancillary accommodation for the existing church and for church related activities and shall not be made available for hire by external bodies for any other purpose, including any purpose within Class D1 of the Town and Country Planning (Use Classes Order) 1987 (as amended) other than on one day per week from Monday to Friday when the church is not in use for services.
- 6) Prior to the commencement of development a plan of the car park showing the reconfiguration of the parking bays perpendicular to the edge on both sides shall be submitted to and approved in writing by the local planning authority. The reconfigured car park shall be provided in accordance with the details so approved prior to the first use of the building and retained and maintained as such thereafter.
- 7) The development shall achieve a BREEAM 'Very Good' standard. Evidence shall be provided to the local authority: – i) Prior to the commencement of development, of how it is intended the development will achieve BREEAM very good standard or alternative as agreed in writing by the local planning authority; and ii) Prior to the occupation of the development, that the development has achieved a BREEAM post construction certificate minimum level very good or alternative as agreed in writing by the local planning authority.
- 8) No development shall be carried out on the land until full details of hard and soft landscape works have been submitted to and approved in writing by the Council. Those details shall include: planting plans (identifying existing planting, plants and trees to be retained and new

planting/trees); a schedule of new plants and trees (noting species, size of stock at the time of planting and proposed number/densities); and a programme of implementation. No development shall take place other than in accordance with the approved details.

- 9) If within a period of 5 years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 10) The hereby approved roof lights shall be 'conservation-style' and fitted flush with the slope of the roof.