
Appeal Decision

Site visit made on 19 June 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 24 August 2017

Appeal Ref: APP/D5120/W/17/3170911

Erith Working Mens Club, Valley Road, Erith DA8 1BT

- 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 Rev A Adeyemi, Kent Foursquare Gospel Church against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/02613/FUL, dated 23 October 2016, was refused by notice dated 31 January 2017.
 - The development proposed is continued use of part of premises for mixed use as club house/place of worship (Class D1 and D2) and formation of access ramp.
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Decision

1. The appeal is allowed and planning permission is granted for use of part of premises for mixed use as club house/place of worship (Class D1 and D2) and formation of access ramp at Erith Working Mens Club, Valley Road, Erith DA8 1BT in accordance with the terms of the application, Ref 16/02613/FUL, dated 23 October 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues raised by this appeal are the effect the development has on the living conditions of occupiers of nearby residential properties and on highway safety.

Reasons

3. The appeal site is a working men's club (the club) although the development relates to a discreet part of the building which is identified on the plans as a Church Hall and which supporting documentation advises was formerly a snooker hall. This is separately accessed from the club and situated on the corner of Pembroke and Valley Roads with the substantive club building wrapping around it on two sides. Other than the club and a vehicle repair garage behind dwellings on Pembroke Road, the site's surroundings are predominantly residential in character. Whilst there are no dwellings immediately adjoining that part of the club used as the Church Hall there are dwellings close by on surrounding streets, including opposite the entrance.
4. The appellant states that the use commenced in September 2016 and that the Church holds services at the premises twice a week; on Sunday mornings and Wednesday evenings. The Planning, Design and Access Statement which accompanied the application advised that the maximum number of attendees at services is not more than 25. The appellant and the Council understand that the club is open every day of the week, has a capacity of around 200 persons

and as well as facilities for members hosts both regular and occasional entertainment and events.

Neighbours' living conditions

5. Notwithstanding the railway line and main road which lie to the east of Battle Road, based on the representations made by interested parties and my observations, the occupiers of surrounding dwellings currently experience a noise environment generally consistent with a residential area. They would therefore be sensitive to change in the locality. The use has the potential to generate some noise and disturbance both through activities within the Church Hall and from members of the congregation arriving for and leaving from services. Nearby residential occupiers objecting to the development have reported experiencing such disturbance, including on occasion late into the night.
6. The appellant provided a Noise Impact Assessment (NIA) in support of his application. This reported survey results that amplified music and singing within the building did not "have any demonstrable impact on the ambient noise climate." However, it noted that music was audible when there were lulls in background noise from passing traffic but consequently recommended a series of mitigation measures. Based on this information, provided that the mitigation measures are implemented, noise arising from inside the building as part of worship would be unlikely to give rise to unacceptable disturbance to surrounding residential occupiers.
7. The appellant has indicated that they would be willing to adhere to conditions limiting numbers of worshippers, limiting the days and hours services take place and to implementing noise mitigation measures set out in their NIA.
8. The additional activity generated by the development is reported to have created disturbance by way of vehicle movements associated with drop off, pick up and parking in the vicinity of the appeal site, as well as from visitors' voices whether arriving in vehicles or not. However, even if there is some noise generated by attendees arriving or leaving, including those in vehicles, provided that the proposed hours of operation are adhered to this would be unlikely to extend into hours of the day when it would be reasonable to expect the noise environment to be quieter such as late into the evening or night.
9. Furthermore, due to its capacity, the club also has the potential to generate considerably more noise and disturbance from visitors arriving and leaving than the appeal use, albeit the Council advise that they have no record of complaints relating to noise from the club itself. The limited duration, frequency and attendance of the Church use would be unlikely to be considerably more disruptive than the existing club use has the potential to generate, particularly when events are held in the club.
10. I am conscious that nearby residents have raised considerable concerns and I have taken these into consideration. However, the mitigating measures would ensure that unacceptable noise and disturbance would not occur as a direct result of services taking place. Whilst there would remain a residual risk that inconsiderate activity outside the building could disturb residents, this is unlikely to occur at unsociable hours if the proposed times are adhered to. Nevertheless, those objecting to the proposal have indicated that the use has operated with larger numbers and at different times although the appellant

disputes this. Such circumstances would indicate that it would be prudent to monitor the use to establish whether, beyond any mitigating conditions, the use is managed in a manner which would avoid giving rise to other forms of disturbance.

11. I note that a temporary permission was suggested (without prejudice) in the Council's suggested conditions. The Planning Practice Guidance (PPG) advises¹ that a temporary permission may be appropriate where a 'trial run' is needed in order to assess the effect of the development on the area. The Council and interested parties have reported that the appellant has disregarded the hours of operation for which they applied for and other mitigation measures. However, as the use has been operating without the benefit of a planning permission, there have been no conditions with which he was obliged to adhere, including the mitigation measures in the NIA. A temporary permission would not preclude the Council from enforcing the requirements of any mitigation conditions within that period.
12. Subject to the mitigation measures being implemented, the proposal would be unlikely to materially harm the living conditions of occupiers of nearby residential properties, with any residual risks being managed by way of a temporary permission. Therefore, the development would be unlikely to have the unreasonable effects on the surrounding area by reason of noise that UDP² Policy ENV39 seeks to avoid. For the same reasons the location is suitable for a building used for, or in connection with, public worship and the development would accord with UDP Policy COM6.
13. The Council cited UDP Policy COM3 in its refusal reason however this relates to nursery classes and crèche facilities and is therefore not relevant to the consideration of the development.

Highway safety

14. The appellant proposes providing three car parking spaces within the verge area between the building and Pembroke Road. This would formalise the impromptu parking on the verge reported by neighbours and observed by the Council. The Council's Statement considers that access from Valley Road to the proposed car parking area could be improved and planning conditions could ensure that the arrangements are acceptable. The Council have provided accident data relating to two collisions at the junction of Valley Road to Pembroke Road. However, the details of these incidents would appear to relate to the visibility available to drivers entering or exiting the junction and existing on-street parking arrangements.
15. The existing modest parking area adjacent to the club entrance on Valley Road would require vehicles to either reverse in or out. Similarly I observed that forecourt parking to dwellings on Valley and Pembroke Roads would also require similar manoeuvres, including instances where such accesses are located in close proximity to road junctions. Therefore, should any vehicles be unable to turn within the site and have to enter or exit the proposed car parking area in reverse gear this would not be an unexpected manoeuvre in the area. I agree with the Council that the low number of movements, slow approach speeds and acceptable visibility would mean that the arrangement

¹ Paragraph: 014, reference ID: 21a-014-20140306.

² Bexley Council Unitary Development Plan, 2004.

would be unlikely to create a significant hazard. Whilst the access may be likely to be more intensively used than surrounding domestic forecourts, this would be for limited duration and only on limited times and days of the week.

16. Although the Council consider that the additional on-street parking would increase parking stress this is not borne out by their survey figures which show that on-street parking on Pembroke and Valley Roads is available even during times of heavier parking. The appellant advises that many members of the congregation arrive by foot or by public transport and although just a 'snap shot' the Council's observations of the Church when in use support this. A condition requiring a travel plan can encourage such travel patterns.
17. On the basis of the evidence before me, this leads me to consider that the parking and access arrangements themselves, would not lead to severe effects or material harm to highway safety, subject to their detailed arrangements being approved by way of planning conditions.
18. As such there would be no conflict with UDP Policies T17 and ENV39 which together require that adequate provision is made for off-street parking up to maximum levels, amongst other criteria, or Core Strategy³ Policy CS15 which seeks to manage the highway network to ensure the free flow of traffic and promote health and safety.
19. The Council's statement advises that the UDP Policies SHO4 and SHO9 (relating to viability and vitality of town centres and food and drink uses) were quoted in its decision notice in error.

Other Matters

20. Interested parties have raised concerns over the suitability of the building in light of fire safety and numbers of occupiers. However there is no evidence to suggest that my decision would negate or supersede the proper consideration of such matters under the appropriate regulations or legislation. There is no substantive evidence that the proposed use would affect drainage in an adverse manner although a condition could ensure that the proposed car parking area is properly drained. There is no substantive evidence that the presence of security personnel would have a materially harmful effect on neighbours' living conditions. These, and other considerations, have not led me to alter my conclusions regarding the main issues.

Conditions

21. I have considered the Council's suggested conditions in light of advice in the PPG, making amendments where necessary and I have sought the views of the main parties on them.
22. It is necessary to specify the approved plans as this provides certainty. It is necessary to limit the permission to a two year temporary period in order to assess the effect of the development on the area and to enable the effects of the use to be monitored. This will enable the Council to consider if a permeant use would be appropriate (should the appellant wish to apply for a subsequent permission). The appellant considers that a five year temporary permission would better reflect the five year lease agreement they have and that there would be financial and legal implications with a shorter term. However, a

³ Local Development Framework Development Plan Document Bexley Core Strategy, 2012.

period of two years would strike the right balance between providing a reasonable period within which the use can operate and reviewing the effects of that use within a reasonable timescale.

23. As the 'red line' site boundary includes the whole club building, it is necessary in the interests of clarity and certainty to specify that the place of worship use only relates to the Church Hall part of the building and that the limits on hours, days of the week and numbers of users only apply to the place of worship use rather than the existing club use. Limiting the duration, frequency and numbers attending services will ensure that the use is not so intense as to give rise to unacceptable disturbance to surrounding occupiers or affect highway safety. Whilst the Council's suggested operating hours condition would enable use on every weekday evening, the appellant is clear in his supporting information that worship times would only be on two days a week. As the frequency of use has a bearing on the acceptability of the development I have limited the times when the Church Hall can be used as a place of worship.
24. Requiring the implementation and verification of the NIA recommendations, that openings are closed during use and that no amplified sound emanating from the building can be measured at the front of surrounding dwellings will avoid noise from within the building harming neighbours' living conditions.
25. It is necessary that car and cycle parking is provided in accordance with approved details to ensure adequate provision of these facilities. In the interests of highway safety it is necessary to provide suitable visibility for the access itself and that the works do not in themselves adversely affect visibility from the junction of Valley and Pembroke Roads. Requiring that a Travel Plan is prepared and adhered to will encourage attendees to use alternatives to private cars and will assist in limiting effects on on-street parking. In order to ensure that the building is accessible to those with a variety of needs it is necessary to require that the proposed ramp is provided.
26. As the use is already being carried out it is necessary to require that the various mitigation measures and parking facilities are implemented as soon as possible, whilst allowing reasonable period for details to be prepared, approved and implemented as appropriate. I can appreciate the Council's desire for as short a compliance period as possible. However, as some conditions include a requirement for the Council to approve details I consider that the compliance periods are reasonable, taking this and the preparation time into account.

Conclusion

27. For the above reasons, and having had regard to all other matters raised, subject to mitigating conditions the development would not unacceptably harm the living conditions of occupiers of nearby residential properties nor highway safety, and accords with the development plan. The appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: V.08/01, V.08/02, V.08/03, V.08/04, V.08/05 Rev: A and V.08/06.
- 2) The place of worship use hereby permitted shall be for a limited period being the period of two years from the date of this decision. The use hereby permitted shall be discontinued on or before the expiration of a period not exceeding two years from the date of this decision.
- 3) The place of worship use hereby permitted shall only take place in the area identified as Church Hall on drawing v.08/05.
- 4) Amplified sound arising from the place of worship use of the premises shall not exceed a level which would be audible when measured at the façade of any residential property at any time.
- 5) The place of worship use hereby permitted shall only take place when the windows and door in the Church Hall are closed.
- 6) The Church Hall shall not be occupied for the place of worship use by more than 25 persons at any one time.
- 7) Within eight weeks of the date of this permission the mitigation measures in the Noise Impact Assessment produced by MRL Acoustics, reference: MRL/100/1106/1v1, dated October 2016, shall be fully implemented. These measures shall remain in situ for the lifetime of the use hereby permitted.
- 8) Within one month of the installation of the mitigation measures specified in condition 7) a verification report to demonstrate that they have been implemented shall have been submitted to and approved in writing by the local planning authority.
- 9) The Church Hall shall not be used as a place of worship other than between the hours of 1830 and 2030 on Wednesdays and between the hours of 0930 and 1130 on Sundays.
- 10) Within three months of the date of this permission car and cycle parking is to be implemented in accordance with a scheme which has been submitted to and approved in writing beforehand by the local planning authority. Notwithstanding the details shown on the submitted drawings, the scheme shall include details of the proposed access, sightline envelope, car park, covered bicycle parking and boundary treatments, including surface and drainage details. The car and cycle parking shall remain and be available for use for the lifetime of the use hereby permitted.
- 11) Prior to the car park or access first coming into use the vehicle access shall be provided with that part of 2.4m x 2.4m pedestrian visibility splays that can be provided within the site and (with the exception of any trees selected by, or on behalf of, the local planning authority) shall thereafter be permanently maintained free of all obstructions to visibility between heights of 0.6m and 2m above the level of the adjoining highway.
- 12) Prior to the car park or access first coming into use, that part of a vehicular sight line of 43m x 2.4m which can be accommodated within the site shall

be provided to the north of the Valley Road junction and (with the exception of any trees or existing street furniture selected by, or on behalf of, the local planning authority) shall thereafter be permanently maintained free of all obstructions to visibility between heights of 0.6m and 2m above the level of the adjoining highway.

- 13) Within two months of the date of this permission the place of worship use hereby permitted shall not be carried out or operated other than in accordance with a Travel Plan, incorporating measures to encourage sustainable transport and including methodology for its implementation and monitoring, which has been submitted to and approved in writing beforehand by the local planning authority.
- 14) Within three months of the date of this permission the access ramp hereby permitted shall be implemented in accordance with a scheme which has been submitted to and approved in writing beforehand by the local planning authority. The ramp shall remain and be available for use for the lifetime of the use hereby permitted.