



Appeal Decision

Site visit made on 9 November 2020

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref: APP/D5120/W/20/3249665

33A Bexley Road, Erith, Kent DA8 1SH.

- 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 Dr Chris Ogedengbe of Praise Embassy against the decision of the London Borough of Bexley Council.
 - The application Ref 19/00060/FUL, dated 10 January 2019, was refused by notice dated 26 September 2019.
 - The development proposed is for continuation of use as a place of worship & educational training centre: I. Place of worship, II. Day Nursery, III. Education and training & community centre, IV. Provision of a disabled access ramp, V. Use of children's play area, VI. Fencing, VII. Details of a scheme for the segregation of traffic and pedestrians within the site.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of this appeal is the quality and extent of information provided to explain the proposal with reference to drawings and travel plan.

Procedural Matters

3. As the address of the premises has varied in documents submitted, I have, used the address from Bexley Council's Decision Notice, as this clarifies the address and that this decision relates to the premises.

Reasons

4. 33A Bexley Road (No 33A) is within the boundary of Erith Town Centre and forms part of a larger part 2/part 3 storey building with a mix of uses, which is located at the junction of Bexley Road with the A206, at the Erith Roundabout. The appeal site comprises ground and basement levels at No 33A and an area of adjacent forecourt. The Celestial Church of Christ adjoins the appeal site at 33 Bexley Road.
5. Following successive temporary permissions for use of the appeal site as a place of worship and non-residential education and training, a temporary permission¹ was granted by Bexley Council (the Council) on 9 September 2018

¹ Council Planning Ref: 18/0056/FUL

for continued use of the premises as a place of worship and an educational training/community centre and day nursery. Although apparently being intended for a one year period, the relevant condition on the approval cited 11 January 2018 as the end date of that temporary permission. The appeal proposal is for the continued use of the appeal site for the same uses approved in this previous temporary permission, with the inclusion of a disabled access ramp, an outdoor play area and boundary fencing. The Council have confirmed that, in their view, the principle of the use in this location is acceptable and I find no reason to demur from that conclusion.

6. Whilst drawings submitted for this proposal have been submitted for gaining previous approvals for continuing the same uses in the appeal site, these have been supplemented with other drawings. Collectively these indicate differing internal layouts and have ambiguous, contradictory or no indications of where different uses will be carried out within the building. It is, therefore not clear from the drawings submitted what is actually proposed in relation to the layout and the various uses and function of the appeal premises.
7. Whilst the appellant is of the view that a play area is not a requirement of nursery provision, there is one included in the proposal. However, none of the appellant's drawings show the location, extent or access point to the proposed play area. It is, therefore, not possible for me to establish whether the proposal for a play area would be safe in relation to the use of any remaining forecourt for vehicular movement and parking.
8. The appellants travel plan for the proposal is undated. The appellant has stated that this was carried out recent to their submission and I have no reason to doubt that that is the case. However, no completed questionnaires to verify the times and dates were provided or details of travel in relation to the use of the premises for different events indicated in the proposal and the use of public parking facilities at these times. The appellant's travel plan does not therefore allow the proper assessment of whether the proposal has an impact on highway safety and parking. Furthermore, the travel plan did not include targets set for travel to and from the site by sustainable modes of travel.
9. Paragraphs 43 and 44 of the NPPF state that the right information is crucial to good decision-making and that local planning authorities should publish a list of their requirements in this regard. I find, however, that, for the reasons given above, the information provided by the appellant with their application to illustrate and explain the proposal does not accord with the Council's published guidance² and is not sufficient on its own to allow the appeal. In accordance with the paragraph 55 NPPF I have, therefore, considered whether an otherwise unacceptable development could be made acceptable through the use of conditions.
10. To allow conditions to be applied to a permission in accordance with Planning Practice Guidance³ (PPG), it is first necessary to be able to establish what, if any, adverse impacts a development may have, in order to enable development to proceed with conditions that would mitigate those adverse impacts, where it would otherwise have been necessary to refuse planning permission.

² London Borough of Bexley Planning Application Requirements (reviewed and updated on 17th October 2018)

³ Planning Practice Guidance ID 21a-001-20140306

11. For the reasons given above, the information necessary for me to properly establish what is being proposed is not available. Therefore, I am unable to establish what any condition would be seeking to achieve in terms of making an otherwise unacceptable development acceptable. Under these circumstances any condition would not be relevant to the development permitted or necessarily precise, thereby, not meeting two of the 'six tests' for conditions set out in paragraph 55 of the NPPF and the PPG⁴. I do not, therefore, consider that conditions requiring the submission of additional drawings and a revised travel plan could be applied to a permission for the proposal to make it acceptable.
12. Consequently, I find that the proposal does not accord with policies ENV39, COM3 and T17 of the Bexley Council Unitary Development Plan (2004), Policy 3.18 of the London Plan (2016) and Policies S1 and S3 of the London Plan-intend to publish (2019), which collectively seek to ensure that development is safe for users and the public, and that facilities including education facilities and nurseries do not have demonstrable negative local impacts, such as adverse traffic/parking impact or nuisance to neighbours.

Other Matters

13. As well as the previous planning approvals relating to the temporary use of the appeal site, the appellant has drawn my attention to planning approvals for the use of No 33 as a place of worship⁵ and for continued use of a property in the borough as a NVQ training centre⁶. Although these do demonstrate that D1 uses have been approved with conditions relating to travel plans etc., they would have been considered on their own merits, I have, therefore, only given little weight to these in my considerations.
14. The appellant has commented on the council's approach to dealing with the planning application, however, these are not matters material to my determination of this appeal as other mechanisms exist to resolve such issues. Moreover, I have considered the development on its own merits, which is a fundamental principle that underpins the planning system.

Conclusion

15. For the above reasons and with the presumption in favour of sustainable development and paragraph 11 of the NPPF in mind, I conclude that the appeal should be dismissed and planning permission refused.

Victor Callister

INSPECTOR

⁴ Planning Practice Guidance ID 21a-003-20190723

⁵ Council Planning Ref: 10/01680/FUL

⁶ Council Planning Ref: 07/02369/FUL